

# LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE

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## CALIFORNIA ARCHITECTS BOARD

PUBLIC PROTECTION THROUGH EXAMINATION, LICENSURE, AND REGULATION

# LANDSCAPE ARCHITECTS PRACTICE ACT WITH RULES AND REGULATIONS

# 2007

Includes amendments through  
October 3, 2007

LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE

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## **Landscape Architects Practice Act**

The 2007 Landscape Architects Practice Act, with rules and regulations in effect as of October 3, 2007, is published as a reference for licensees, candidates for licensure, and other interested parties. All licensees and candidates should have knowledge of the statutes and regulations pertaining to the practice of landscape architecture in California.

While every effort has been made to ensure that this publication is accurate, it does not have legal effect. Should any discrepancy between the law and this publication occur, the law will take precedence.

Regulatory amendments may take effect throughout the year, while statutory amendments typically become effective on January 1 of the year following their passage. With the exception of the general provisions beginning on page 31, statutes and regulations that have been amended or adopted since the last edition of this publication are listed below and the modifications have been **shaded** within the text for easy reference.

### *Business and Professions Code Sections:*

§5615, §5620, §5621, §5622, §5641, §5641.1, §5641.2,  
§5641.3, §5641.4, §5641.5, §5641.6,  
§5651, §5657, §5659, §5678, §5678.1, §5678.2, §5678.3,  
§5678.4, §5678.5, §5679.5

### *California Code of Regulations Sections:*

§2604, §2608, §2615, §2624, §2624.1, §2630, §2630.1, §2649, §2670

Questions regarding an interpretation of these statutes and regulations may be directed to the Landscape Architects Technical Committee at 2420 Del Paso Road, Suite 105, Sacramento, CA, 95834, (916) 575-7230, fax at (916) 575-7285, or email at [latc@dca.ca.gov](mailto:latc@dca.ca.gov). The Landscape Architects Practice Act with current updates can be viewed at [www.latc.ca.gov](http://www.latc.ca.gov).



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# Landscape Architects Practice Act

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## 2007 Business and Professions Code

### Article 1. General Provisions

#### § 5615 “Landscape Architect” – Practice of Landscape Architecture

As used in this chapter: “Landscape architect” means a person who holds a license to practice landscape architecture in this state under the authority of this chapter.

A person who practices landscape architecture within the meaning and intent of this article is a person who **offers or** performs professional services, for the purpose of landscape preservation, development and enhancement, such as consultation, investigation, reconnaissance, research, planning, design, preparation of drawings, construction documents and specifications, and responsible construction observation. Landscape preservation, development and enhancement is the dominant purpose of services provided by landscape architects. Implementation of that purpose includes: (1) the preservation and aesthetic and functional enhancement of land uses and natural land features; (2) the location and construction of aesthetically pleasing and functional approaches and settings for structures and roadways; and, (3) design for trails and pedestrian walkway systems, plantings, landscape irrigation, landscape lighting, landscape grading and landscape drainage.

Landscape architects perform professional work in planning and design of land for human use and enjoyment. Based on **analyses** of environmental physical and social characteristics, and economic considerations, they produce overall plans and landscape project designs for integrated land use.

The practice of a landscape architect may, for the purpose of landscape preservation, development and enhancement, include: investigation, selection, and allocation of land and water resources for appropriate uses; feasibility studies; formulation of graphic and written criteria to govern the planning and design of land construction programs; preparation review, and analysis of master plans for land use and development; production of overall site plans, landscape grading and landscape drainage plans, irrigation plans, planting plans, and construction details; specifications; cost estimates and reports for land development; collaboration in the design of roads, bridges, and structures with respect to the functional and aesthetic requirements of the areas on which they are to be placed; negotiation and arrangement for execution of land area projects; field observation and inspection of land area construction, restoration, and maintenance.

This practice shall include the location, arrangement, and design of those tangible objects and features as are incidental and necessary to the purposes outlined herein. Nothing herein shall preclude a duly licensed landscape architect from planning the development of land areas and elements used thereon or from performing any of the services described in this section in connection with the settings, approaches, or environment for buildings, structures, or facilities, in accordance with the accepted public standards of health, safety, and welfare.

This chapter shall not empower a landscape architect, licensed under this chapter, to practice, or offer to practice, architecture or engineering in any of its various recognized branches.

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### **§ 5616 Landscape Architecture Contract – Contents, Notice Requirements**

Any landscape architect who agrees to provide professional services pursuant to this chapter shall provide every client with a detailed written contract. That written contract shall include, but not be limited to, all of the following:

- (a) A description of services to be provided by the landscape architect to the client.
- (b) A description of any basis of compensation applicable to the contract, including the total price that is required to complete the contract, and method of payment agreed upon by both parties.
- (c) A notice which reads: “Landscape architects are licensed by the State of California.”
- (d) The name, address, and license number of the landscape architect and the name and address of the client.
- (e) A description of the procedure that the landscape architect and client will use to accommodate additional services.

### **§ 5620 Board of Landscape Architects – Transfer of Duties**

The duties, powers, purposes, responsibilities, and jurisdiction of the California State Board of Landscape Architects that were succeeded to and vested with the Department of Consumer Affairs in accordance with Chapter 908 of the Statutes of 1994 are hereby transferred to the California Architects Board. The Legislature finds that the purpose for the transfer of power is to promote and enhance the efficiency of state government and that assumption of the powers and duties by the California Architects Board shall not be viewed or construed as a precedent for the establishment of state regulation over a profession or vocation that was not previously regulated by a board, as defined in Section 477.

- (a) There is in the Department of Consumer Affairs a California Architects Board as defined in Article 2 (commencing with Section 5510) of Chapter 3. Whenever in this chapter “board” is used it refers to the California Architects Board.
- (b) Except as provided herein, the board may delegate its authority under this chapter to the Landscape Architects Technical Committee.
- (c) After review of proposed regulations, the board may direct the examining committee to notice and conduct hearings to adopt, amend, or repeal regulations pursuant to Section 5630, provided that the board itself shall take final action to adopt, amend, or repeal those regulations.
- (d) The board shall not delegate its authority to discipline a landscape architect or to take action against a person who has violated this chapter.
- (e) This section shall become inoperative on July 1, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the date on which it becomes inoperative and is repealed.

#### **§ 5620.1 Protection of the Public**

Protection of the public shall be the highest priority for the Landscape Architects Technical Committee in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protections of the public shall be paramount.

### **§ 5621 Landscape Architects Technical Committee – Members**

- (a) There is hereby created within the jurisdiction of the board, a Landscape Architects Technical Committee, hereinafter referred to in this chapter as the landscape architects committee.

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- (b) The landscape architects committee shall consist of five members who shall be licensed to practice landscape architecture in this state. The Governor shall appoint three of the members. The Senate Committee on Rules and the Speaker of the Assembly shall appoint one member each.
- (c) The initial members to be appointed by the Governor are as follows: one member for a term of one year; one member for a term of two years; one member for a term of three years. The Senate Committee on Rules and the Speaker of the Assembly shall initially each appoint one member for a term of four years. Thereafter, appointments shall be made for four-year terms, expiring on June 1 of the fourth year and until the appointment and qualification of his or her successor or until one year shall have elapsed whichever first occurs. Vacancies shall be filled for the unexpired term.
- (d) No person shall serve as a member of the landscape architects committee for more than two consecutive terms.
- (e) This section shall become inoperative on July 1, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the date on which it becomes inoperative and is repealed.

### **§ 5622 Landscape Architects Technical Committee – Duties and Functions**

- (a) The landscape architects committee may assist the board in the examination of candidates for a landscape architect's license and, after investigation, evaluate and make recommendations regarding potential violations of this chapter.
- (b) The landscape architects committee may investigate, assist, and make recommendations to the board regarding the regulation of landscape architects in this state.
- (c) The landscape architects committee may perform such duties and functions that have been delegated to it by the board pursuant to Section 5620.
- (d) The landscape architects committee may send a representative to all meetings of the full board to report on the committee's activities.
- (e) This section shall become inoperative on July 1, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the date on which it becomes inoperative and is repealed.

### **§ 5624 Compensation for Members of the Landscape Architects Committee**

Each member of the landscape architects committee shall receive per diem and expenses, as provided in Section 103.

## **Article 2. Administration**

### **§ 5626 Records Kept by Executive Officer**

The executive officer shall keep an accurate record of all proceedings of the landscape architects committee.

### **§ 5629 Violation of Provisions of Chapter**

The board shall prosecute all persons guilty of violating the provisions of this chapter. Except as provided in Section 159.5, the board may employ such inspectors, special agents, investigators and clerical assistance as it may deem necessary to carry out the provisions of this chapter. It may fix the compensation to be paid for such services and incur such additional expense as may be deemed necessary.

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### **§ 5630 Board May Adopt, Amend, or Repeal Rules and Regulations**

The board may, in accordance with the provisions of the Administrative Procedure Act, adopt, amend, or repeal such rules and regulations as are reasonably necessary to:

- (a) Govern the examinations of applicants for licenses to practice landscape architecture.
- (b) Establish criteria for approving schools of landscape architecture.
- (c) Establish rules of professional conduct that are not inconsistent with state or federal law. Every person who holds a license issued by the board shall be governed and controlled by these rules.
- (d) Carry out the provisions of this chapter.

## **Article 3. Application of Chapter**

### **§ 5640 Unlicensed Person Engaging in Practice – Sanctions**

It is a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment, for any person, who, without possessing a valid, unrevoked license as provided in this chapter, engages in the practice of landscape architecture or uses the title or term “landscape architect,” “landscape architecture,” “landscape architectural,” or any other titles, words, or abbreviations that would imply or indicate that he or she is a landscape architect as defined in Section 5615.

### **§ 5641 Chapter Exceptions, Exemptions**

This chapter shall not be deemed to prohibit any person from preparing drawings for the conceptual design and placement of tangible objects and landscape features or plans, drawings, and specifications for the selection, placement, or use of plants for a single family dwelling. Construction documents, details, or specifications for the tangible objects or landscape features, and alteration of site requiring grading and drainage plans shall be prepared by a licensed professional as required by law.

#### **§ 5641.1 Chapter Exceptions, Exemptions – Personal Property**

This chapter shall not be deemed to prohibit any person from preparing any plans, drawings, or specifications for any property owned by that person.

#### **§ 5641.2 Chapter Exceptions, Exemptions – Nurserypersons**

Every person who holds a valid license issued by the State of California, under the provisions of Chapter 1 (commencing with Section 6721) of the Food and Agricultural Code, authorizing engagement in the business of selling nursery stock in this state, may engage in the preparation of planting plans or drawings as an adjunct to merchandizing nursery stock and related products, but may not use the title of landscape architect. That activity is exempt from licensure under the provisions of this chapter.

#### **§ 5641.3 Chapter Exceptions, Exemptions – Architects, Professional Engineers, and Land Surveyors**

An architect, professional engineer or land surveyor licensed or registered under the statutes of this state, insofar as the licensed or registered professional practices the profession for which he or she is licensed or registered, is exempt from the provisions of this chapter, except that an architect, professional engineer, or land surveyor may not use the title “landscape architect” unless he or she holds a license as required under this chapter.

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### **§ 5641.4 Chapter Exceptions, Exemptions – Landscape Contractors**

A landscape contractor licensed under the statutes of this state, insofar as he or she works within the classification for which the license is issued, may design systems and facilities for work to be performed and supervised by that landscape contractor and is exempt from the provisions of this chapter, except that a landscape contractor may not use the title “landscape architect” unless he or she holds a license as required under this chapter.

### **§ 5641.5 Chapter Exceptions, Exemptions – Golf Course Architects**

- (a) Nothing contained in this chapter shall be deemed to prohibit a person from engaging in the practice of, or offering to practice as, a golf course architect.
- (b) As used in this section, “golf course architect” means a person who performs professional services such as consultation, investigation, reconnaissance, research, design, preparation of drawings and specifications and responsible supervision, where the dominant purpose of such service is the design of a golf course, in accordance with accepted professional standards of public health and safety.

### **§ 5641.6 Chapter Exceptions, Exemptions – Irrigation Consultants**

- (a) Nothing contained in this chapter shall be deemed to prohibit a person from engaging in the practice of, or offering to practice as, an irrigation consultant.
- (b) As used in this section, “irrigation consultant” means a person who performs professional services such as consultation, investigation, reconnaissance, research, design, preparation of drawings and specifications and responsible supervision, where the dominant purpose of such service is the design of landscape irrigation, in accordance with accepted professional standards of public health and safety.

### **§ 5642 Partnership, Corporation – Unlicensed Person**

This chapter shall not be deemed to prevent a landscape architect from forming a partnership, firm, or corporation with, or employing, persons who are not landscape architects if the signature, date, and license number of the landscape architect appears on all instruments of service. In no case shall the other members of the partnership, firm, or corporation be designated or described as landscape architects.

The name of the licensed landscape architect shall appear wherever the firm name is used in the professional practice of the partnership, firm or corporation, and such landscape architect shall reside in California when such partnership, firm or corporation maintains a California office or mailing address. The name of such licensee shall appear on all partnership, firm or corporation stationery, brochures, business cards and any instruments of service used or provided in the professional practice of the partnership, firm or corporation.

No partnership, firm or corporation shall engage in the practice of landscape architecture unless the work is under the immediate and responsible direction of a licensee of the board.

Failure of any person to comply with this section constitutes a ground for disciplinary action.

### **§ 5643 Repealed**

### **§ 5644 Chapter Applicability to Other Code Provisions**

Any person who holds a valid state license or other such authority which authorizes the person to engage in a business or occupation, insofar as the person engages in a professional, occupational or business activity within the scope of that license or other authority, shall not be required to be licensed under this chapter.

### **§ 5645 Repealed**

## Article 4. Issuance of Licenses

### § 5650 Examinations – Qualifications, Application, Fee

Subject to the rules and regulations governing examinations, any person, over the age of 18 years, who has had six years of training and educational experience in actual practice of landscape architectural work shall be entitled to an examination for a certificate to practice landscape architecture. A degree from a school of landscape architecture approved by the board shall be deemed equivalent to four years of training and educational experience in the actual practice of landscape architecture. Before taking the examination, a person shall file an application with the executive officer and pay the application fee fixed by this chapter.

### § 5651 Examination of Applicants

- (a) The board shall by means of examination, ascertain the professional qualifications of all applicants for licenses to practice landscape architecture in this state and shall issue a license to every person whom it finds to be qualified on payment of the initial license fee prescribed by this chapter.
- (b) The examination shall consist of a written examination. The written examination may be waived by the board if the applicant (1) **is currently licensed by a United States jurisdiction, Canadian province, or Puerto Rico and has passed a written examination equivalent to that which is required in California at the time of application and (2) has passed the California supplemental examination if, at the time of application, it is required of all California applicants.**

### § 5651.1 Guidelines for Delegation of Authority to Grade Examinations

- (a) Notwithstanding Section 111, the board may adopt guidelines for the delegation of its authority to grade the examinations of applicants for licensure to any vendor under contract to the board for provisions of a landscape architect's license examination. The guidelines shall be within the board's legal authority to establish the standards for licensure in this state, and shall include, but not be limited to:
  - (1) Goals for the appropriate content, development, grading, and administration of an examination, against which the vendor's rules and procedures can be judged.
  - (2) Procedures through which the board can reasonably assure itself that the vendor adequately meets the goals established by the board.
- (b) The board shall not delegate its authority to grade the examination of candidates for licensure in this state to any vendor or any party not in compliance with Section 111 or with the guidelines established in subdivision (a).

### § 5652 License – Issuance

If the applicant's examination is satisfactory, and upon the payment of the license fee fixed by this chapter, the executive officer shall issue a license to the applicant showing that the person named therein is entitled to practice landscape architecture in this state, in accordance with the provisions of this chapter.

### § 5653 License – Denial, Refusal

The board may deny or refuse to issue a license to an applicant upon proof of the commission by the applicant of any act or omission which would constitute grounds for disciplinary action under this chapter if committed by a licensee.

### § 5654 Record – License Holders

The board shall keep a record of the names and addresses of all license holders and such additional personal data as the board may require. A proper index and record of each license issued shall be kept by the board.



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### **§ 5655 License – Term**

Licenses to practice landscape architecture shall remain in full force until revoked or suspended for cause, or until they expire, as provided in this chapter.

### **§ 5656 License – Duplicate**

A duplicate license to practice landscape architecture in place of one which has been lost, destroyed or mutilated shall be issued upon proper application, subject to the rules and regulations of the board. A duplicate license fee fixed by this chapter shall be charged for the issuance of the duplicate license.

### **§ 5657 Filing of Mailing Address – Requirement**

Each licensee shall file his or her current mailing address with the board at its office in Sacramento, California, and shall notify the board of any and all changes of mailing address, providing both his or her old and new address within 30 days after a change. A penalty as provided in this chapter shall be paid by a licensee who fails to notify the board within 30 days after a change of address.

### **§ 5659 Inclusion of License Number – Requirement**

Each person licensed under this chapter shall sign, date, and seal or stamp using a seal or stamp described in this section, all plans, specifications, and other instruments of service therefor, prepared for others as evidence of the person's responsibility for those documents. Failure to comply with this section constitutes a ground for disciplinary action. Each person licensed under this chapter shall use a seal or stamp of the design authorized by the board, bearing his or her name, license number, the legend "licensed landscape architect," the legend "State of California" and a means of providing a signature, the renewal date of the license, and date of signing and sealing or stamping.

## Article 5. Discipline

### **§ 5660 Investigations – Suspension, Revocation**

The board may upon its own motion, and shall upon the verified complaint in writing of any person, investigate the actions of any landscape architect, and may suspend for a period not exceeding one year, or revoke, the license of any such landscape architect who is guilty of any one or more of the acts or omissions constituting grounds for disciplinary action under the chapter.

### **§ 5661 Accusations – Time Limitation for Filing Action**

All accusations against a licensee shall be filed within three years after the board discovers, or through the use of reasonable diligence should have discovered, the act or omission alleged as the ground for disciplinary action or within six years after the act or omission alleged as the ground for disciplinary action, whichever occurs first. However, with respect to an accusation alleging a violation of Section 5667, the accusation may be filed within three years after the discovery by the board of the alleged facts constituting the fraud or misrepresentation prohibited by Section 5667.

If any accusation is not filed within the time provided in this section, no action against a license shall be commenced under this article.

### **§ 5662 Suspension, Revocation – Proceedings**

All proceedings for the suspension or revocation of licenses under this chapter shall be conducted in accordance with the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code. The board shall have all of the powers granted therein.

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### **§ 5663, 5664 Reserved**

#### **§ 5665 Suspended, Revoked License – Renewal**

A suspended license is subject to expiration and shall be renewed as provided in this article, but such renewal does not entitle the holder of the license, while it remains suspended and until it is reinstated, to engage in the activity to which the license relates, or in any other activity or conduct in violation of the order or judgment by which it was suspended.

A revoked license is subject to expiration as provided in this chapter, but it may not be renewed. If it is reinstated after its expiration, the holder of the license, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

#### **§ 5666 Practice in Violation of Chapter Provisions**

The fact that the holder of a license is practicing in violation of the provisions of this chapter constitutes a ground for disciplinary action.

#### **§ 5667 Fraud, Misrepresentation – Obtaining License**

The fact that the holder of a license has obtained the license by fraud or misrepresentation, or that the person named in the license has obtained it by fraud or misrepresentation, constitutes a ground for disciplinary action.

#### **§ 5668 Impersonating Landscape Architect – Practice Under Assumed Name**

The fact that the holder of a license is impersonating a landscape architect or former landscape architect of the same or similar name, or is practicing under an assumed, fictitious or corporate name, constitutes a ground for disciplinary action.

#### **§ 5669 Aiding, Abetting – Unlicensed Practice**

The fact that the holder of a license has aided or abetted in the practice of landscape architecture, any person not authorized to practice landscape architecture under the provisions of this chapter, constitutes a ground for disciplinary action.

#### **§ 5670 Fraud, Deceit in Practice**

The fact that, in the practice of landscape architecture, the holder of a license has been guilty of fraud or deceit constitutes a ground for disciplinary action.

#### **§ 5671 Negligence, Willful Misconduct in Practice**

The fact that, in the practice of landscape architecture, the holder of a license has been guilty of negligence or willful misconduct constitutes a ground for disciplinary action.

#### **§ 5672 Gross Incompetence in Practice**

The fact that the holder of a license has been guilty of gross incompetence constitutes a ground for disciplinary action.

#### **§ 5673 False Use of Signature**

The fact that the holder of a license has affixed his or her signature, or his or her stamp, or has permitted the use of his or her name to or on plans, drawings, specifications or other instruments of service which have not been prepared by him or her or under his or her immediate and responsible direction, or has permitted his or her name or his or her signature or his or her stamp to be used for the purpose of assisting any person, not a landscape architect, to evade the provisions of this chapter, constitutes a ground for disciplinary action.

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### **§ 5675      Felony Conviction – Sanctions**

The conviction of a felony in connection with the practice of landscape architecture constitutes a ground for disciplinary action. The record of a conviction shall be conclusive evidence thereof.

### **§ 5675.5      Public Agency – Disciplinary Action**

The fact that the holder of a license has had disciplinary action taken by any public agency for any act substantially related to the qualifications, functions, or duties as a landscape architect constitutes a ground for disciplinary action.

### **§ 5676      Plea of Nolo Contendere – Criminal Conviction – Sanctions**

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgement of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

### **§ 5677      Repealed**

### **§ 5678      Report of Settlement or Arbitration Award – Licensee**

- (a) A licensee shall report to the board in writing within 30 days of the date the licensee has knowledge of any civil action judgment, settlement, arbitration award, or administrative action resulting in a judgment, settlement, or arbitration award against the licensee in any action alleging fraud, deceit, negligence, incompetence, or recklessness by the licensee in the practice of landscape architecture if the amount or value of the judgment, settlement, or arbitration award is five thousand dollars (\$5,000) or greater
- (b) The report required by subdivision (a) shall be signed by the licensee and shall set forth the facts that constitute the reportable event. If the reportable event involves the action of an administrative agency or court, the report shall set forth all of the following:
  - (1) The title of the matter.
  - (2) The court or agency name.
  - (3) The docket number.
  - (4) The claim or file number.
  - (5) The date on which the reportable event occurred.
- (c) A licensee shall promptly respond to oral or written inquiries from the board concerning the reportable events, including inquiries made by the board in conjunction with license renewal.
- (d) Failure of a licensee to comply with this section shall be grounds for disciplinary action.
- (e) A licensee who fails to comply with this section may be subject to a civil penalty of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000) as an intermediate sanction imposed by the board in lieu of revoking the licensee's license. A licensee who knowingly and intentionally fails to comply with this section may be subject to a civil penalty of up to twenty thousand dollars (\$20,000) as an additional intermediate sanction imposed by the board in lieu of revoking the licensee's license.

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### **§ 5678.1 Report of Settlement or Arbitration Award – Insurer**

- (a) Within 30 days of payment of all or any portion of a civil action judgment, settlement, or arbitration award described in Section 5678 against a licensee of the board in which the amount or value of the judgment, settlement, or arbitration award is five thousand dollars (\$5,000) or greater, any insurer providing professional liability insurance to that licensee or landscape architectural entity shall report to the board all of the following:
- (1) The name of the licensee.
  - (2) The claim or file number.
  - (3) The amount or value of the judgment, settlement, or arbitration award.
  - (4) The amount paid by the insurer
  - (5) The identity of the payee.
- (b) Within 30 days of payment of all or any portion of any civil action judgment, settlement, or arbitration award described in Section 5678 against a licensee of the board in which the amount or value of the judgment, settlement, or arbitration award is five thousand dollars (\$5,000) or greater, any state or local governmental agency that self insures that licensee shall report to the board all of the following:
- (1) The name of the licensee.
  - (2) The claim or file number
  - (3) The amount or value of the judgment, settlement, or arbitration award.
  - (4) The amount paid.
  - (5) The identity of the payee.

### **§ 5678.2 Application of Reporting Requirements**

The requirements of Sections 5678 and 5678.1 shall apply if a party to the civil action, settlement, arbitration award, or administrative action is or was (a) a sole proprietorship, partnership, firm, corporation, or state or local governmental agency in which a licensee is or was an owner, partner, member, officer, or employee and (b) a licensee in responsible control of that portion of the project that was the subject of the civil judgment, settlement, arbitration award, or administrative action.

### **§ 5678.3 Report to Board Not a Violation of Confidentiality**

Notwithstanding any other provision of law, a licensee shall not be considered to have violated a confidential settlement agreement or other confidential agreement by providing a report to the board as required by this article.

### **§ 5678.4 Adoption of Reporting Requirement Regulations**

The board may adopt regulations to further define the reporting requirements of Sections 5678 and 5678.1.

### **§ 5678.5 Repealed**

### **§ 5679 Repealed**

### **§ 5679.5 Repealed**

**Article 6. Revenue**

**§ 5680      Renewal of License – Forms**

- (a) Licenses issued under this chapter shall expire no more than 24 months after the issue date. The expiration date of the original license shall be set by the board in a manner to best distribute renewal procedures throughout each year.
- (b) To renew an unexpired license, the license holder shall, on or before the expiration date of the license, apply for renewal on a form prescribed by the board, and pay the renewal fee prescribed by this chapter.
- (c) The renewal form shall include a statement specifying whether the licensee was convicted of a crime or disciplined by another public agency during the preceding renewal period and that the licensee's representations on the renewal form are true, correct, and contain no material omissions of fact, to the best knowledge and belief of the licensee.

**§ 5680.05    Report to Board by Clerk of Court of Judgment of Conviction of Crime by License Holder**

Within 10 days after a judgment by a court of this state that a license holder has committed a crime or is liable for any death, personal or property injury or loss caused by the license holder's fraud, deceit, negligence, incompetency, or recklessness in practice, the clerk of the court which rendered the judgment shall report this to the board.

**§ 5680.1      Expired License – Renewal**

Except as otherwise provided in this chapter, a license that has expired may be renewed at any time within three years after its expiration on filing of application for renewal on a form prescribed by the board, and payment of all accrued and unpaid renewal fees. If the license is renewed more than 30 days after its expiration, the license holder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which all renewal fees are paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 5680 that next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

**§ 5680.2      License Renewal – Three Years after Expiration**

A license which is not renewed within three years after its expiration may not be renewed, restored, reissued, or reinstated thereafter, but the holder of the license may apply for and obtain a new license if:

- (a) No fact, circumstance, or condition exists which, if the license were issued, would justify its revocation or suspension,
- (b) The applicant pays all of the fees which would be required of the applicant if the applicant were then applying for the license for the first time.
- (c) The applicant takes and passes the examination which would be required of the applicant if the applicant were then applying for the license for the first time, or otherwise establishes to the satisfaction of the board that the applicant is qualified to practice landscape architecture.

The board may, by regulation, authorize waiver or refund of all or any part of the examination fee in those cases in which a license is issued without an examination under this section.

**§ 5681      Fee Schedule**

The fees prescribed by this chapter for landscape architect applicants and landscape architect licensees shall be fixed by the board as follows:

- (a) The application fee for reviewing an applicant's eligibility to take any section of the examination may not exceed one hundred (\$100).
- (b) The fee for any section of the examination administered by the board shall not exceed the actual cost to the board for purchasing and administering each exam.
- (c) The fee for an original license may not exceed four hundred dollars (\$400), except that, if the license is issued less than one year before the date on which it will expire, the fee shall equal 50 percent of the fee fixed by the board for an original license. The board may, by appropriate regulation, provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.
- (d) The fee for a duplicate license may not exceed fifty dollars (\$50).
- (e) The renewal fee may not exceed four hundred dollars (\$400).
- (f) The penalty for failure to notify the board of a change of address within 30 days from an actual change in address may not exceed fifty dollars (\$50).
- (g) The delinquency fee shall be 50 percent of the renewal fee for the license in effect on the date of the renewal of the license, but not less than fifty dollars (\$50) nor more than two hundred dollars (\$200).
- (h) The fee for filing an application for approval of a school pursuant to Section 5650 may not exceed six hundred dollars (\$600) charged and collected on an biennial basis.

**§ 5682      Depositing Fee – Creation of Fund**

Within 10 days after the beginning of every month, all fees collected by the department for the month preceding, under the provisions of this chapter, shall be paid into the State Treasury to the credit of the California Architects Board – Landscape Architects Fund, which is hereby created.

**§ 5683      Fund Appropriation**

The money paid into the California Architects Board – Landscape Architects Fund shall be used for expenditure in the manner prescribed by law to defray the expenses of the board and in carrying out and enforcing the provisions of this chapter.

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## **Title 16. Professional and Vocational Regulations** **Division 26. Landscape Architects Technical Committee**

### **Article 1. General Provisions**

#### **§ 2600      Repealed**

#### **§ 2602      Definitions**

As used in this chapter, unless the context otherwise requires:

- (a) "Board" means the California Architects Board.
- (b) "Code" means the Business and Professions Code.
- (c) "Approved school" means a school with a landscape architecture program approved by the Board.
- (d) "Group practice" means a partnership, firm or corporation offering and/or engaged in the practice of landscape architecture. Landscape architectural services of the group practice must be performed by or under the direct supervision of a person who may be partner, principal, officer, or employee of the group practice who holds a valid license to practice landscape architecture in this State. The signature, date of execution and license number of such licensed person shall appear on all instruments of service.
- (e) "Individual practice" means the practice of landscape architecture by one person who holds a valid license to practice landscape architecture in this State.
- (f) "Instruments of service" means finalized working drawings, contract proposals, site analyses, environmental review documents, inspection reports, cost estimates, planning studies, and specifications which have been prepared by a person who holds a valid license to practice landscape architecture in this State or which have been prepared under his or her immediate and responsible direction.

#### **§ 2603      Delegation of Certain Functions**

The power and discretion conferred by law upon the Board to receive and file accusations; issue notices of hearings, statements to respondent and statements of issues; receive and file notices of defense; determine the time and place of hearings under Section 11508 of the Government Code; issue subpoenas and subpoenas duces tecum; set calendar cases for hearing and perform other functions necessary to the businesslike dispatch of the Board in connection with proceedings under the provisions of Sections 11500 through 11528 of the Government Code, prior to the hearing of such proceedings; and the certification and delivery or mailing of copies of decisions under Section 11518 of said Code are hereby delegated to and conferred upon the executive officer, or in his or her absence from the office of the Board, the acting executive officer.

The power and discretion conferred by law upon the Board to evaluate and determine qualifications and approve applicants for examination under Section 5650 of the Code, and determine which applicants for reciprocity licenses are entitled to waiver of the written examination under Section 5651 of the Code is hereby delegated to and conferred upon the executive officer.

#### **§ 2604      Filing of **Mailing** Address**

Each person holding a license from the Board shall file his or her current mailing address with the Board at its office in Sacramento, California, and shall immediately notify the Board of any and all changes of mailing address, giving both his or her old and new addresses.

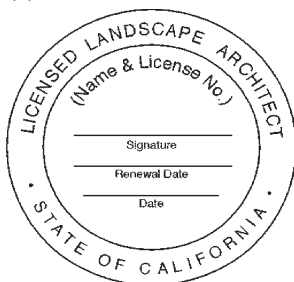
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The licensee's mailing address shall be a matter of public record. A penalty as provided in Section 5681 of the Code and Section 2649 shall be paid by a licensee who fails to notify the Board within 30 days after a change of address.

### § 2605 Repealed

### § 2606 Stamp

The stamp authorized by Sections 5659 and 5673 of the Code may be purchased by the landscape architect from any convenient source, but shall be of the design illustrated here and shall be not less than one (1) inch in diameter.



### § 2607 Repealed

### § 2608. Public Information System – Disclosure.

- (a) The Board shall establish and maintain a public information system to provide members of the public with information regarding complaints and disciplinary or enforcement actions against licensed landscape architects and unlicensed persons subject to the Board's jurisdiction and Division 3, Chapter 3.5 of the Code (commencing with section 5615). Such a system shall also provide the public with information regarding the licensed status of the Board's licensees.

Information subject to the public information system shall be disclosed to members of the public, upon request, by telephone, in person, or in writing (including fax or email). Such information, when feasible and to the extent required or permitted by law, shall be made available by the Board in writing or by telephone. Requests for information shall be responded to within ten (10) days.

- (b) Information to be Disclosed Regarding License Status.

The Board shall disclose the following information regarding past and current licensees:

- (1) The name of the licensee, as it appears in the Board's records;
- (2) The license number;
- (3) The address of record;
- (4) The license issue date;
- (5) The license expiration date; and
- (6) The license status and history.

- (c) Information to be Disclosed Regarding Disciplinary or Enforcement Actions.

Unless otherwise required by law, the Board shall disclose the following information regarding disciplinary or enforcement actions taken against licensees and unlicensed persons, if applicable:

- (1) Total number of disciplinary and enforcement actions taken by the Board;
- (2) Brief summary of disciplinary and enforcement actions taken by the Board; Citations that have been satisfactorily resolved shall be disclosed as such;



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- (3) Current status of pending Accusations, Statements of Issues, and Citations filed by the Board; disclosure of pending actions shall contain a disclaimer stating that the pending administrative action(s) against the person is/are alleged and no final legal determination has yet been made; further disclaimers or cautionary statements regarding such pending actions may also be made; and
- (4) Information which is statutorily mandated to be disclosed.
- (d) Information to be Disclosed Regarding Complaints.
  - (1) The Board shall disclose complaint information when the executive officer has determined that:
    - (A) The complaint information has a direct and immediate relationship to the health and safety of another person; and
    - (B) One or more of the following have occurred:
      - 1. A complaint involves a dangerous act or condition caused by the subject of the complaint that has or could result in a death, bodily injury or severe consequences and disclosure may protect the consumer and/or prevent additional harm to the public;
      - 2. A series of complaints against a party alleging a pattern of unlawful activity has been received by the Board and it has been determined that disclosure may protect the consumer and/or prevent additional harm to the public;
      - 3. A complaint has been referred to the Attorney General for filing of an Accusation or Statement of Issues; or
      - 4. A complaint has been referred to other law enforcement entity for prosecution.
  - (2) Complaint information that is determined to meet the conditions of disclosure listed in subsection (d)(1) shall be incorporated into the public information system no later than ten (10) days after the conditions of disclosure have been met.
  - (3) Information about a complaint shall not be disclosed if it is determined by the executive officer that any of the following apply:
    - (A) Disclosure is prohibited by statute or regulation;
    - (B) Disclosure might compromise an investigation or prosecution; or
    - (C) Disclosure might endanger or injure the complainant or third party.
  - (4) When conditions of disclosure have been met, the Board shall disclose the following information regarding complaints received against licensees and unlicensed persons, if applicable:
    - (A) Total number of complaints meeting conditions of disclosure;
    - (B) Date(s) of receipt and nature of the complaint(s);
    - (C) Disposition of the complaint(s), by indicating whether the matter has been:
      - 1. Referred to formal disciplinary action;
      - 2. Disposed of through any other action, formal or informal; or
      - 3. Other disposition;
    - (D) Information which is statutorily mandated to be disclosed;
    - (E) Current status of criminal prosecution resulting from a complaint received by the Board;
    - (F) A description of the type of public information not included in the system (i.e., civil judgements, criminal convictions, unsubstantiated complaints); and

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(G) Disclaimers indicating that the system does not constitute endorsement or non-endorsement of a person, and that the system may not contain all available information.

### **§ 2610      Application for Examination**

- (a) Application for examination shall be made upon the form provided by the Board, accompanied by such evidence, statements, or documents as therein required.
- (b) The application shall be filed with the Board at its office in Sacramento, California at least seventy (70) days prior to the date of the examination which the applicant wishes to take and shall be accompanied by the fee required by Section 5681(a) of the Code. Refunds of fees to applicants who are found to be ineligible to take the examination shall be made in accordance with Section 158 of the Code.

### **§ 2611      Repealed**

### **§ 2612      Review of Application**

- (a) Within sixty (60) days after receipt of an application for examination, the Board shall inform the candidate in writing whether the application is complete and accepted for filing or that it is deficient and what specific information or documentation is required to complete the application.
- (b) The Board shall render a decision concerning a candidate's written examination results within three hundred (300) days after the filing of a completed application for the written examination. This processing time applies to those candidates who submit their completed written examination application on the examination filing deadline.

### **§ 2613      Processing Times**

The minimum, median and maximum processing times for written examination results from the time of receipt of a complete application until the Board makes a decision thereon is set forth below:

Minimum – 204 days

Median – 240 days

Maximum – 276 days

These processing times apply to those candidates who submit a completed written examination application on the examination filing deadline.

### **§ 2614      Examination Transition Plan**

- (a) A candidate who has received Board credit for any section of the Uniform National Examination for Landscape Architects (hereafter UNE) shall be given credit for those sections as those sections correspond to the 1992 Landscape Architect Registration Examination (hereafter LARE) sections in accordance with the following transition chart:

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<b>Previous Sections Passed UNE</b>	<b>Credit to 1992 LARE</b>
Section 1 Professional Practice	Section 1 Legal and Administrative Aspects of Practice
Section 2 Design	Section 2 Programming and Environmental Analysis Section 3 Conceptualization Section 4 Design Synthesis
Section 4 Design Implementation	Section 5 Integration of Technical and Design
Section 5 Grading and Drainage	Section 6 Grading and Drainage
Section 6 California Section	Section 8 California Section

- (b) (1) A candidate who has received Board credit for any section of the 1992 LARE shall be given credit for those sections as those sections correspond to sections of the Professional Examination for Landscape Architects (hereafter PELA) in accordance with the following transition chart:

<b>Previous Sections Passed 1992 LARE</b>	<b>Credit to PELA</b>
Section 1 Legal and Administrative Aspects of Practice Section 2 Programming and Environmental Analysis Section 7 Implementation of Design	Section 1 Objective
Section 4 Design Synthesis	Section 2 Design
Section 5 Integration of Technical Design Section 6 Grading and Drainage	Section 3 Construction Documents
Section 8 California Section	Section 4 California Section

- (2) A candidate who is transferring credit from the UNE or 1992 LARE to the PELA and has not previously received Board credit for Section 8 (California) of the LARE shall be required to take and pass either Section 1 (Objective) or Section 4 (California) of the PELA. A candidate who has been granted transfer credit from the LARE to section 1 of the PELA may not apply such transfer credit to fulfill his or her requirement to have passed the California Section of the PELA.
- (c) (1) A candidate who has received Board credit for any section of the PELA shall be given credit for the corresponding sections of the 1997 and thereafter Landscape Architect Registration Examination and the California Section in accordance with the following transition chart:

## California Code of Regulations

<b>Previous Sections Passed PELA</b>	<b>Credit to 1997 and Thereafter LARE and California Section</b>
Section 1 Objective	Section 1 Legal and Administrative Aspects of Practice Section 2 (7) Analytical and Technical Aspects of Practice, and California Section
Section 2 Design	Section 3 Conceptualization and Communication Section 4 Design Synthesis
Section 3 Construction Documents	No Transition Credit
Section 4 California Section	California Section
No Transition Credit	Section 5 Integration of Technical Design Requirements Section 6 Grading and Drainage

- (2) To receive Board credit for Section 2 (7) – Analytical and Technical Aspects of Practice of the 1997 and thereafter LARE, a candidate shall either have passed Section 1 – Objective of the PELA or have received credit for both Section 2 – Programming and Environmental Analysis and Section 7 – Implementation of Design Through the Construction Process of the pre-1997 LARE, either by having previously passed those sections of the pre-1997 LARE or by having received transition credit from the UNE.
- (d) (1) A candidate who has received credit for any section of the LARE which was administered on or before December 31, 1998 shall be given credit for the corresponding sections of the LARE which are administered on or after June 1999 in accordance with the following transition chart:

<b>Previous Sections Passed 1998 and Prior LARE</b>	<b>Credit to LARE and Thereafter LARE</b>
Section 1 Legal and Administrative Aspects of Practice	Section A Legal and Administrative Aspects of Practice
Section 2 Analytical and Technical Aspects of Practice	Section B Analytical Aspects of Practice
Section 3 Conceptualization and Communications; and Section 4 Design Synthesis	Section C Planning and Site Design
Section 5 Integration of Technical and Design Requirements	Section D Structural and Materials and Methods of Construction
Section 6 Grading and Drainage	Section E Grading, Drainage and Storm Water Management

- (2) A candidate shall receive credit for Section C of the LARE which is administered on or after June 1999 only if the candidate has passed both Sections 3 and 4 of the LARE which was administered on or before December 31, 1998. A candidate who has passed either Section 3 or 4 of the LARE which was administered on or before December 31, 1998, but not both, shall be required to pass Section C of the LARE which is administered on or after June 1999.

**§ 2615 Form of Examinations**

All candidates for licensure as a landscape architect shall pass all sections of the Landscape Architect Registration Examination (hereafter LARE) and the California Supplemental Examination subject to the following provisions:

- (a) A candidate who is licensed as a landscape architect in a **U.S. jurisdiction, Canadian province, or Puerto Rico** by having passed a written examination substantially equivalent in scope and subject matter to the written examination last given in California as determined by the Board shall be eligible for licensure upon passing the California Supplemental Examination.
- (b) A candidate who is not a licensed landscape architect and who has received credit from a **U.S. jurisdiction, Canadian province, or Puerto Rico** for sections of a written examination shall be entitled to receive Board credit for the corresponding sections of the 1997 and thereafter LARE in accordance with section 2614 provided the Board determines that the written examination is equivalent in scope and subject matter to the written examination last given in California.
- (c) A candidate who has received transfer credit from the Board for Sections of the Uniform National Examination, the 1992 Landscape Architect Registration Examination, or the Professional Examination for Landscape Architecture shall be eligible for licensure upon passing the remaining sections of the 1997 and thereafter LARE and the California Supplemental Examination.

**§ 2616 Application for Licensure Following Examination**

- (a) A candidate, having passed all sections of the licesning examination, shall apply for a landscape architects license within five years after the date of mailing of examination results.
- (b) A candidate who fails to apply for a license in accordance with subsection (a) shall not be issued a license unless the candidate reapplies for a license and meets the following requirements:
  - (1) No fact, circumstance, or condition exists which would justify denial under Business and Professions Code Section 480,
  - (2) The candidate pays all of the fees which would be required of the candidate if the candidate were then applying for the license for the first time, and
  - (3) The candidate takes and passes the examination which would be required of the candidate if the candidate were then applying for the first time, or is subject to waiver of the examination pursuant to Business and Professions Code Section 5651(b).

**§2620 Education and Training Credits – Operative on January 1, 1997**

The Board's evaluation of a candidate's training and educational experience is based on the following table:

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<b>Experience Description</b>	<b>Education Max. Credit Allowed</b>	<b>Training and/ or Practice Max. Credit Allowed</b>
(a) Experience Equivalent:		
(1) Degree in landscape architecture from an approved school.	4 years	
(2) Degree in landscape architecture from a non-approved school.	3 years	
(3) Extension certificate in landscape architecture from an approved school.	2 years	
(4) Associate degree in landscape architecture from a city/community college which consists of a least a 2-year curriculum.	1 year	
(5) Extension certificate as specified in subdivision (a)(3) and a degree from a university or college which consists of a 4-year curriculum.	4 years	
(6) Associate degree from a college specified in subdivision (a)(4) and an extension certificate as specified in subdivision (a)(3) of this section.	3 years	
(7) Self employment as, or employment by, a landscape architect licensed in the jurisdiction where the experience occurred shall be granted credit on a 100% basis.		5 years
(8) Self employment as, or employment by, a licensed architect or registered civil engineer in the jurisdiction where the experience occurred shall be granted credit on a 100% basis.		1 year
(9) Self employment as a California licensed landscape contractor or a licensed landscape contractor in another jurisdiction where the scope of practice for landscape contracting is equivalent to that allowed in this state pursuant to Business and Professions Code Section 7027.5 and Cal. Code Regs. Title 16, Section 832.27 shall be granted credit on a 100% basis		4 years

(b) Education Credits

- (1) Candidates shall possess at least one year of educational credit to be eligible for the examination.
- (2) A degree from a school with a landscape architecture program shall be defined as one of the following:
  - (A) Bachelor of Landscape Architecture.
  - (B) Bachelor of Science in landscape architecture.
  - (C) Bachelor of Arts in landscape architecture.
  - (D) Masters degree in landscape architecture.

The maximum credit which may be granted for a degree or combination of degrees from an approved school shall be four years of educational credit.

A degree from a school with a landscape architecture program shall be deemed to be approved by the Board if the landscape architectural curriculum has been approved by the Landscape Architectural Accreditation Board (LAAB) as specified in its publication: "Accreditation Standards for Programs in Landscape Architecture" dated February 26, 1990 or the Board determines that the program has a curriculum equivalent to a curriculum having LAAB accreditation.

- (3) No credit shall be granted for academic units obtained without earning a degree or certificate under categories of subsection (a)(1), (2), (3) or (4) of this section.
  - (4) A candidate enrolled in a degree program where credit earned is based on work experience courses (e.g., internship or co-op program) shall not receive more than the maximum credit allowed for degrees under subdivision (a)(1), (2) or (3) of this section.
  - (5) Except as specified in subdivision (a)(5) and (6) of this section, candidates with multiple degrees shall not be able to accumulate credit for more than one degree.
  - (6) The Board shall not grant more than four years of credit for any degree or certificate or any combination thereof for qualifying educational experience.
- (c) Training Credits
- (1) (A) Candidates shall possess at least two years of training/practice credit to be eligible for the examination.
  - (B) At least one of the two years of training/practice credit shall be under the direct supervision of a landscape architect licensed in a United States jurisdiction, and shall be gained after graduation from an educational institution specified in subdivision (a)(1), (2), (3) or (4) of this section.
  - (C) A candidate shall be deemed to have met the provisions of subdivision (c) (1)(B) if he or she possesses a degree from a school specified in subdivision (a)(1) and has at least two years of training/practice credit as a licensed landscape contractor or possesses a certificate from a school specified in subdivision (a)(3) and has at least four years of training/practice credit as a licensed landscape contractor.
  - (2) Candidates shall be at least 18 years of age or a high school graduate before they shall be eligible to receive credit for work experience.
  - (3) A year of training/practice experience shall consist of 1500 hours of qualifying employment. Training/practice experience may be accrued on the basis of part-time employment. Employment in excess of 40 hours per week shall not be considered.
- (d) Miscellaneous Information
- (1) Independent, non-licensed practice or experience, regardless of claimed coordination, liaison, or supervision of licensed professionals shall not be considered.
  - (2) The Board shall retain inactive applications for a five (5) year period. Thereafter, the Board shall purge these records unless otherwise notified by the candidate. A candidate who wishes to reapply to the Board, shall be required to re-obtain the required documents to allow the Board to determine their current eligibility.

This section shall become operative on January 1, 1997.

**§ 2620.5 Requirements for an Approved Extension Certificate Program**

An extension certificate program shall meet the following requirements:

- (a) The educational program shall be established in an educational institution which has a four-year educational curriculum and either is approved under Section 94900 of the Education Code or is an institution of public higher education as defined by Section 66010 of the Education Code.
- (b) There shall be a written statement of the program's philosophy and objectives which serves as a basis for curriculum structure. Such statement shall take into consideration the broad perspective of values, missions and goals of the profession of landscape architecture. The program objectives shall provide for relationships and linkages with other disciplines and public and private landscape architectural practices. The program objectives shall be reinforced by course inclusion, emphasis and sequence in a manner which promotes achievement of program objectives. The program's literature shall fully and accurately describe the program's philosophy and objectives.
- (c) The program shall have a written plan for evaluation of the total program, including admission and selection procedures, attrition and retention of students, and performance of graduates in meeting community needs.
- (d) The program shall be administered as a discrete program in landscape architecture within the institution with which it is affiliated.
- (e) There shall be an organizational chart which identifies the relationships, lines of authority and channels of communication within the program and between the program and other administrative segments of the institution with which it is affiliated.
- (f) The program shall have sufficient authority and resources to achieve its educational objectives.
- (g) The program's director shall be a landscape architect.
- (h) The faculty shall have the primary responsibility for developing policies and procedures, planning, organizing, implementing and evaluating all aspects of the program. The faculty shall be adequate in type and number to develop and implement the program approved by the Board.
- (i) The program curriculum shall provide instruction in the following areas related to landscape architecture:
  - (1) History, art and communication
  - (2) Natural, cultural, and social systems
  - (3) Design as a process in shaping the environment
  - (4) Plant material and their application
  - (5) Construction materials and techniques
  - (6) Professional practice methods
  - (7) Professional ethics and values
  - (8) Computer systems and advanced technologyThe program's curriculum shall not be revised until it has been approved by the Board.
- (j) The program shall consist of at least 90 quarter units or 60 semester units.
- (k) The program shall maintain a current syllabus for each required course which includes the course objectives, content and the methods of evaluating student performance.



- (l) The curriculum shall be offered in a timeframe which reflects the proper course sequence. Students shall be required to adhere to that sequence, and courses shall be offered in a consistent and timely manner in order that students can observe those requirements.
- (m) A program shall meet the following requirements for its instructional personnel:
  - (1) At least one half of the program's instructional personnel shall hold a professional degree in landscape architecture.
  - (2) At least one half of the program's instructional personnel shall be licensed by the Board as landscape architects.

**§ 2621      Time and Place of Holding Examinations**

- (a) The written examinations for licensure shall be conducted at locations selected by the Board, and may be held annually.
- (b) After an applicant has been found to possess the minimum requirements as provided in Section 5650 of the Code, he or she will be notified of the time and place of his or her assigned examination.
- (c) An applicant who fails to take an assigned examination shall forfeit his or her examination fee. It is further provided that the examination fee may be transferred by the Board to the next scheduled examination where reasons of health, certified by a medical doctor, or other good cause exists which prevent taking the examination, are provided to the Board within fourteen (14) days after the assigned examination.
- (d) To qualify for licensure, an applicant must pass each section of his or her examination. In case of failure of one or more sections, such sections may be retaken at a subsequent examination after application as prescribed above. Sections passed successfully need not be repeated.

**§ 2622      Repealed**

**§ 2623      Notification of Examination Results, Inspection of Examinations**

- (a) Each candidate shall be notified as to his or her score in each section of the examination.
- (b) A candidate may, upon written request to the Board accompanied by the fee required by Section 2649, review his or her failed graphic performance section(s) of the examination. A request to review failed graphic performance sections shall be received in the Board's office within 30 days of issuance of examination scores.
  - (1) Only the candidate's own failed graphic performance sections of the examination shall be available for review by the candidate.
  - (2) No more than one review of each failed graphic performance section shall be allowed.
  - (3) The executive officer shall designate the specific time and place for the examination review sessions. These sessions shall be conducted in northern and southern California.
  - (4) At the time of such review, no one other than the candidate and a representative of the Board shall have access to his or her examination review papers. Candidates may not take notes at the examination review session.
- (c) Candidates may request a standard review or a red line review. A standard review allows candidates to compare their failing solutions to graphic performance sections with the evaluation criteria used to grade the examination. A red line review provides candidates with general comments on the weakness exhibited in their failing solutions to graphic performance sections.

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### § 2624 **Expired License – Three Years After Expiration**

An applicant whose landscape architect license has been expired for more than three years but less than five years shall be eligible for a new license upon:

- (a) Complying with the provisions of Business and Professions Code Section 5680.2;
- (b) Completing the re-licensure application process as follows:
  - (1) Submitting application for examination and all fees required of first-time applicants (see sections 2610 and 2649);
  - (2) Submitting work samples and supporting materials that demonstrate applicant's current knowledge and experience in landscape architecture; and
  - (3) Passing current sections of the national licensing examination, if any, designated by the Landscape Architects Technical Committee,
- (c) Passing the California Supplemental Examination.

### § 2624.1. **Expired License – Five Years After Expiration.**

An applicant whose landscape architect license has been expired for more than five years shall be eligible for a new license upon:

- a) Complying with the provisions of Business and Professions Code section 5680.2, subdivisions (a) and (b) (see also sections 2610 and 2649);
- (b) Passing the current national licensing examination; and
- (c) Passing the California Supplemental Examination.

### § 2625 **Repealed**

### § 2626 **Repealed**

### § 2627 **Repealed**

### § 2630 **Issuance of Citations**

- (a) The Board's executive officer is authorized to issue citations containing orders of abatement and/or administrative fines pursuant to Sections § 125.9 or 148 of the Code against landscape architects or unlicensed persons who have committed any acts or omissions which are in violation of the Landscape Architects Practice Act or any regulation adopted pursuant thereto.
- (b) Each citation:
  - (1) shall be in writing;
  - (2) shall describe with particularity the nature and facts of the violation, including specific reference to the provision or provisions of law alleged to have been violated;
  - (3) may contain one or more of the following:
    - (A) an assessment of an administrative fine;
    - (B) an order of abatement fixing a reasonable period of time for abatement of the violation;
  - (4) shall be served on the cited individual, in person, or at the address of record on file with the Board, or the last known address, in person, or by certified and regular mail with return receipt requested;
  - (5) shall inform the cited person that, if he or she desires an informal conference to contest the finding of a violation, the informal conference shall be requested by written notice to the Board within 30 calendar days from service of the citation;

- (6) shall inform the cited person that, if he or she desires a hearing to contest the finding of a violation, the hearing shall be requested by written notice to the Board within 30 calendar days from service of the citation;
- (7) shall inform the licensed person that failure to pay the fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the Board. If a citation is not contested and the fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without the payment of the renewal fee and fine;
- (8) shall inform the unlicensed person that failure to pay the fine within 30 days of the date of assessment, unless the citation is being appealed, may result in the executive officer applying to the appropriate superior court for a judgement in the amount of the fine;
  - (A) The sanction authorized under this Section shall be separate from, and in addition to, any civil or criminal remedies.

**§ 2630.1 Assessment of Administrative Fines**

- (a) In no event shall the administrative fine be less than \$250 or exceed \$5,000 for each violation.
- (b) In assessing the amount of an administrative fine, the executive officer shall consider the following criteria:
  - (1) The nature and severity of the violation;
  - (2) The good or bad faith exhibited by the cited person;
  - (3) Evidence that the violation was willful;
  - (4) History of violations of the same or similar nature;
  - (5) The extent to which the cited person has cooperated with the Board and the Board's investigation;
  - (6) The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by his or her violation; and
  - (7) Such other matters as justice may require.
- (c) Where citations include an assessment of an administrative fine, they shall be classified according to the nature of the violation and shall indicate the classification on the face thereof as follows:
  - (1) Class "A" violations are violations which the executive officer has determined involve a person who has violated Business and Professions Code section 5640 by, including but not limited to, acting in the capacity of a landscape architect or engaging in the practice of landscape architecture. A class "A" violation is subject to an administrative fine in an amount not less than seven hundred and fifty dollars (\$750) and not exceeding two thousand five hundred dollars (\$2,500) for each and every violation.
  - (2) Class "B" violations are violations which the executive officer has determined involve either a person who, while engaged in the practice of landscape architecture, has violated a statute or regulation relating to the practice of landscape architecture and which has caused physical damage to a structure or building or to real property or monetary damage to a client or member of the public, or a person who has committed a class "C" violation and has one or more prior, separate class "C" violations. A class "B" violation is subject to an administrative fine in an amount not less than one thousand dollars (\$1,000) and not exceeding two thousand five hundred dollars (\$2,500) for each and every violation.

- (3) Class “C” violations are violations which the executive officer has determined involve a person who, while engaged in the practice of landscape architecture, has violated a statute or regulation relating to the practice of landscape architecture and which has not caused either the death or bodily injury to another person or physical damage to a structure or building or to real property or monetary damage to a client or a member of the public. A class “C” violation is subject to an administrative fine in an amount not less than two hundred and fifty dollars (\$250) and not exceeding one thousand dollars (\$1,000) for each and every violation.
- (d) Notwithstanding the administrative fine amounts specified in subsection (c), a citation may include a fine of up to between \$2,501 to \$5,000 if one or more of the following circumstances apply:
- (1) The citation involves a violation that has an immediate relationship to the health and safety of another person.
  - (2) The cited person has a history of two or more prior citations of the same or similar violations.
  - (3) The citation involves multiple violations that demonstrate a willful disregard of the law.
  - (4) The citation involves a violation or violations perpetrated against a senior citizen or disabled person.

**§ 2630.2 Appeal of Citations**

- (a) Any person served with a citation issued pursuant to Section 2630 may contest the citation by submitting a written request for a hearing to the Board within 30 calendar days of service of the citation. Such hearings shall be conducted pursuant to the Administrative Procedure Act, Chapters 4.5 and 5, (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.
- (b) In addition to requesting a hearing as described in subsection (a), the cited person may, within 30 calendar days of service of the citation, submit a written request for an informal conference with the executive officer.
- (c) The request for an administrative hearing to contest a citation is not waived if the executive officer affirms the citation at an informal conference.
- (d) The executive officer shall within 30 working days from receipt of a written request for an informal conference as provided in subsection (b), hold an informal conference with the cited person. The 30-day period may be extended by the executive officer for good cause. Following the informal conference, the executive officer may affirm, modify, or dismiss the citation, including any administrative fine assessed or order of abatement issued. An order affirming, modifying, or dismissing the original citation shall be served on the cited person within 30 calendar days from the informal conference. Said order shall state in writing the reasons for the affirmation, modification, or dismissal of the original citation. If the order affirms or modifies the original citation, said order shall fix a reasonable period of time for abatement of the violation or payment of the fine. Service of this order shall be made as provided in Section 2630.

- (e) If the informal conference results in the modification of the findings of violation(s), the amount of the fine or the order of abatement, the citation shall be considered modified, but not withdrawn. The cited person shall be entitled to an administrative hearing to contest the modified citation if he or she made a request for an administrative hearing within 30 calendar days after service of the original citation. The cited person shall not be entitled to an informal conference to contest a modified citation. If the cited person did not make a timely request for an administrative hearing after service of the original citation, the decision in the modified citation shall be considered a final order.
- (f) If the citation is dismissed after the informal conference, the request for a hearing, if any, shall be deemed to be withdrawn.
- (g) Submittal of a written request for a hearing as provided in subsection (a), an informal conference as provided in subsection (b), or both, stays the time period in which to pay the fine.
- (h) If the written request for a hearing as provided in subsection (a), an informal conference as provided in subsection (b), or both, is not submitted within 30 calendar days from service of the citation, the cited person is deemed to have waived his or her right to a hearing or an informal conference.

**§ 2630.3 Compliance with Citations**

- (a) If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, then he or she may request from the executive officer an extension of time within which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.
- (b) Failure of an applicant for licensure as a landscape architect to abate the violation or to pay the fine within the time allowed is a ground for denial of licensure.
- (c) If a hearing or informal conference as provided in Section 2630.2, subsections (a) and (b), is not requested, payment of the fine shall not constitute an admission of the violation charged and payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

**§ 2640 Repealed**

**§ 2649 Fees**

The fees for landscape architect applicants and landscape architect licensees shall be fixed by the Board as follows:

- (a) The fee for reviewing an eligibility application or an application to take any section of the national licensing examination or the California Supplemental Examination is \$35.
- (b) Effective October 3, 2007, the fee for each examination administered by the Board is as follows:

<b>Exam Section and Title</b>	<b>Fee</b>
Section C – Site Design	\$280
Section E – Grading, Drainage and Stormwater Management	\$280
California Supplemental Examination	\$55
- (c) The fee for a duplicate license is \$15.
- (d) The penalty for late notification of a change of address is \$50.
- (e) The fee for an original license is \$300.

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- (f) The fee for a biennial renewal is \$300.
- (g) The fee for a standard review is \$60.
- (h) The fee for a **Section C or Section E** red line review is \$140.

### **§ 2655 Substantial Relationship Criteria**

For the purpose of denial, suspension, or revocation of the license of a landscape architect pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions, and duties of a landscape architect if to a substantial degree it evidences present or potential unfitness of a landscape architect to perform the functions authorized by his or her license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, the following:

- (a) Any violation of the provisions of Chapter 3.5 of Division 3 of the Business and Professions Code.

### **§ 2656 Criteria for Rehabilitation**

- (a) When considering the denial of a landscape architect's license under Section 480 of the Business and Professions Code, the Board, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license, will consider the following criteria:
  - (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
  - (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code.
  - (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subsection (1) or (2).
  - (4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
  - (5) Evidence, if any, of rehabilitation submitted by the applicant.
- (b) When considering the suspension or revocation of the license of a landscape architect on the grounds that the person licensed has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his or her present eligibility for a license will consider the following criteria:
  - (1) Nature and severity of the act(s) or offense(s).
  - (2) Total criminal record.
  - (3) The time that has elapsed since commission of the act(s) or offense(s).
  - (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
  - (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
  - (6) Evidence, if any, of rehabilitation submitted by the licensee.
- (c) When considering a petition for reinstatement of the license of a landscape architect, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria specified in subsection (b).

**§ 2660      Repealed**

**§ 2670      Rules of Professional Conduct**

A violation of any rule of professional conduct in the practice of landscape architecture constitutes a ground for disciplinary action. Every person who holds a license issued by the Board shall comply with the following:

(a) Competence:

- (1) A landscape architect shall undertake to perform professional services only when he or she, together with those whom the landscape architect may engage as consultants, are qualified by education, training, and experience in the specific technical areas involved.
- (2) In addition to subsection (a)(1), when practicing landscape architecture, a landscape architect shall act with reasonable care and competence, and shall apply technical knowledge and skill which is ordinarily applied by landscape architects of good standing, practicing in this state under similar circumstances and conditions.

(b) Willful Misconduct:

- (1) In designing a project, a landscape architect shall have knowledge of all applicable building laws, codes, and regulations. A landscape architect may obtain the advice of other professionals (e.g., attorneys, engineers, and other qualified persons) as to the intent and meaning of such laws, codes, and regulations and shall not knowingly design a project in violation of such laws, codes, and regulations.
- (2) Whenever the Board is conducting an investigation, a landscape architect or a candidate for licensure shall respond to the Board's requests for information and/or evidence within 30 days of the date mailed to or personally delivered on the landscape architect or a candidate for licensure.

(c) Full Disclosure:

- (1) A landscape architect shall accurately represent to a prospective or existing client or employer his or her qualifications and the scope of his or her responsibility in connection with projects or services for which he or she is claiming credit.
- (2) A landscape architect shall respond in writing within 30 days to any request from the Board for information solicited in connection with a candidate's application for a license to practice landscape architecture. When providing information in connection with a candidate's application for a license to practice landscape architecture, a landscape architect shall accurately report the candidate's training or experience for the period of time that the landscape architect had direct supervision over the candidate.

(d) Informed Consent:

A landscape architect shall not materially alter the scope or objective of a project without first fully informing the client in writing and obtaining the consent of the client in writing.

(e) Conflict of Interest:

- (1) A landscape architect shall not accept compensation for services from more than one party on a project unless the circumstances are fully disclosed to and agreed to (such disclosure and agreement to be in writing) by all such parties.

- (2) If a landscape architect has any business association or financial interest which is substantial enough to influence his or her judgment in connection with the performance of professional services, the landscape architect shall fully disclose in writing to his or her client(s) or employer(s) the nature of the business association or financial interest. If the client(s) or employer(s) object(s) to such association or financial interest, the landscape architect shall either terminate such association or interest or offer to give up the project or employment.
  - (3) A landscape architect shall not solicit or accept payments, rebates, refunds or commissions whether in the form of money or otherwise from material or equipment suppliers in return for specifying their products to a client of the landscape architect.
  - (4) A landscape architect shall not engage in a business or activity other than in his or her capacity as an officer, employee, appointee or agent of a governmental agency knowing that the business or activity may later be subject, directly or indirectly to the control, inspection, review, audit, or enforcement by the landscape architect.
  - (5) When acting as the interpreter of **construction** contract documents and the judge of construction contract performance, a landscape architect shall **endeavor to secure faithful performance of all parties to the construction contract and shall not show partiality to any party.**
- (f) Copyright Infringement:

A landscape architect shall not have been found by a court to have infringed upon the copyrighted works of other landscape architects or design professionals.

**§ 2671      Public Presentments and Advertising Requirements**

- (a) A landscape architect shall include his or her name and the words “landscape architect” in all forms of advertisements or presentments made to the public in connection with the rendition of landscape architectural services for which a license is required by the Landscape Architects Law, including, but not limited to, any advertisement, card, letterhead or contract proposal.
- (b) For purposes of a group practice which contains or employs two or more landscape architects, the requirements of subsection (a) of this section shall be deemed satisfied as to such group practice if the name of the landscape architect who is a partner, principal, officer or employee of the group practice and the words “Landscape Architect” are included in its advertisements or presentments made to the public.

**§ 2680      Disciplinary Guidelines.**

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board shall consider the disciplinary guidelines entitled “Disciplinary Guidelines” [Rev. 2000] which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such a deviation – for example: the presence of mitigating factors; the age of the case; evidentiary problems.



# Business and Professions Code

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## General Provisions

*Note: The general provisions of the statutes have not been shaded to reflect amendments since the last edition of this publication.*

### **§ 12.5 Authority to Issue Citation for Violation of Regulation**

Whenever in any provision of this code authority is granted to issue a citation for a violation of any provision of this code, that authority also includes the authority to issue a citation for the violation of any regulation adopted pursuant to any provision of this code.

### **§ 23.7 License-Defined**

Unless otherwise expressly provided, “license” means license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

### **§ 29.5 Compliance with Support Orders; License Qualifications**

In addition to other qualifications for licensure prescribed by the various acts of boards under the department, applicants for licensure and licensees renewing their licenses shall also comply with Section 17520 of the Family Code.

### **§ 30 Federal Employer Identification Number or Social Security Number Required of Licensee**

- (a) Notwithstanding any other provision of law, any board, as defined in Section 22, and the State Bar and the Department of Real Estate shall at the time of issuance of the license require that any licensee provide its federal employer identification number, if the licensee is a partnership, or his or her social security number for all others.
- (b) Any licensee failing to provide the federal identification number or social security number shall be reported by the licensing board to the Franchise Tax Board and, if failing to provide after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.
- (c) In addition to the penalty specified in subdivision (b), a licensing board may not process any application for an original license unless the applicant or licensee provides its federal employer identification number or social security number where requested on the application.
- (d) A licensing board shall, upon request of the Franchise Tax Board, furnish to the Franchise Tax Board the following information with respect to every licensee:
  - (1) Name.
  - (2) Address or addresses of record.
  - (3) Federal employer identification number if the entity is a partnership or social security number for all others.
  - (4) Type of license.
  - (5) Effective date of license or a renewal.
  - (6) Expiration date of license.
  - (7) Whether license is active or inactive, if known.
  - (8) Whether license is new or a renewal.

- (e) For the purposes of this section:
  - (1) “Licensee” means any entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.
  - (2) “License” includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.
  - (3) “Licensing board” means any board, as defined in Section 22, the State Bar, and the Department of Real Estate.
- (f) The reports required under this section shall be filed on magnetic media or in other machine readable form, according to standards furnished by the Franchise Tax Board.
- (g) Licensing boards shall provide to the Franchise Tax Board the information required by this section at a time that the Franchise Tax Board may require.
- (h) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the social security number and federal employer identification number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.
- (i) Any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a), or any former officer or employee or other individual who in the course of his or her employment or duty has or has had access to the information required to be furnished under this section, may not disclose or make known in any manner that information, except as provided in this section to the Franchise Tax Board or as provided in subdivision (k).
- (j) It is the intent of the Legislature in enacting this section to utilize the social security account number or federal employer identification number for the purpose of establishing the identification of persons affected by state tax laws and for purposes of compliance with Section 17520 of the Family Code and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.
- (k) If the board utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between the State of California and the state requesting release of the social security number, any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a) may release a social security number to an examination or licensing entity, only for the purpose of verification of licensure or examination status.
- (l) For the purposes of enforcement of Section 17520 of the Family Code, and notwithstanding any other provision of law, any board, as defined in Section 22, and the State Bar and the Department of Real Estate shall at the time of issuance or renewal of the license require that each licensee provide the social security number of each individual listed on the license and any person who qualifies the license. For the purposes of this subdivision, “licensee” means any entity that is issued a license by any board, as defined in Section 22, the State Bar, the Department of Real Estate, and the Department of Motor Vehicles.

**§ 31            Noncompliance with Support Orders or Judgments – Effect on Registration and Licensing of Businesses**

- (a) As used in this section, “board” means any entity listed in Section 101, the entities referred to in Sections 1000 and 3600, the State Bar, the Department of Real Estate, and any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.

- (b) Each applicant for the issuance or renewal of a license, certificate, registration, or other means to engage in a business or profession regulated by a board who is not in compliance with a judgment or order for support shall be subject to Section 11350.6 of the Welfare and Institutions Code.
- (c) "Compliance with a judgment or order for support," has the meaning given in paragraph (4) of subdivision (a) of Section 11350.6 of the Welfare and Institutions Code.

## **Division 1. Department of Consumer Affairs**

### **§ 101.1 Legislative Intent**

- (a) It is the intent of the Legislature that all existing and proposed consumer-related boards or categories of licensed professionals be subject to a review every four years to evaluate and determine whether each board has demonstrated a public need for the continued existence of that board in accordance with enumerated factors and standards as set forth in Division 1.2 (commencing with Section 473).
- (b)
  - (1) In the event that any board, as defined in Section 477, becomes inoperative or is repealed in accordance with the act that added this section, or by subsequent acts, the Department of Consumer Affairs shall succeed to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction not otherwise repealed or made inoperative of that board and its executive officer.
  - (2) Any provision of existing law that provides for the appointment of board members and specifies the qualifications and tenure of board members shall not be implemented and shall have no force or effect while that board is inoperative or repealed. Every reference to the inoperative or repealed board, as defined in Section 477, shall be deemed to be a reference to the department.
  - (3) Notwithstanding Section 107, any provision of law authorizing the appointment of an executive officer by a board subject to the review described in Division 1.2 (commencing with Section 473), or prescribing his or her duties, shall not be implemented and shall have no force or effect while the applicable board is inoperative or repealed. Any reference to the executive officer of an inoperative or repealed board shall be deemed to be a reference to the director or his or her designee.
- (c) It is the intent of the Legislature that subsequent legislation to extend or repeal the inoperative date for any board shall be a separate bill for that purpose.

### **§ 101.6 Purpose of Boards, Bureaus, and Commissions**

The boards, bureaus, and commissions in the department are established for the purpose of ensuring that those private businesses and professions deemed to engage in activities which have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California.

To this end, they establish minimum qualifications and levels of competency and license persons desiring to engage in the occupations they regulate upon determining that such persons possess the requisite skills and qualifications necessary to provide safe and effective services to the public, or register or otherwise certify persons in order to identify practitioners and ensure performance according to set and accepted professional standards. They provide a means for redress of grievances by investigating allegations of unprofessional conduct,

incompetence, fraudulent action, or unlawful activity brought to their attention by members of the public and institute disciplinary action against persons licensed or registered under the provisions of this code when such action is warranted. In addition, they conduct periodic checks of licensees, registrants, or otherwise certified persons in order to ensure compliance with the relevant sections of this code.

### **§ 103        Compensation, Reimbursement for Expenses**

Each member of a board, commission, or committee created in the various chapters of Division 2 (commencing with Section 500) and Division 3 (commencing with Section 5000), and in Chapter 2 (commencing with Section 18600) and Chapter 3 (commencing with Section 19000) of Division 8, shall receive the moneys specified in this section when authorized by the respective provisions.

Each such member shall receive a per diem of one hundred dollars (\$100) for each day actually spent in the discharge of official duties, and shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties.

The payments in each instance shall be made only from the fund from which the expenses of the agency are paid and shall be subject to the availability of money.

Notwithstanding any other provision of law, no public officer or employee shall receive per diem salary compensation for serving on those boards, commissions, committees, or the Consumer Advisory Council on any day when the officer or employee also received compensation for his or her regular public employment.

### **§ 105        Oath of Office**

Members of boards in the department shall take an oath of office as provided in the Constitution and the Government Code.

### **§ 105.5      Tenure of Office – Board Members – Others**

Notwithstanding any other provision of this code, each member of a board, commission, examining committee, or other similarly constituted agency within the department shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

### **§ 106        Board Members – Removal**

The Governor has power to remove from office at any time, any member of any board appointed by him for continued neglect of duties required by law, or for incompetence, or unprofessional or dishonorable conduct. Nothing in this section shall be construed as a limitation or restriction on the power of the Governor, conferred on him by any other provision of law, to remove any member of any board.

### **§ 106.5      Board Members – Disclosing Exam Questions**

Notwithstanding any other provision of law, the Governor may remove from office a member of a board or other licensing entity in the department if it is shown that such member has knowledge of the specific questions to be asked on the licensing entity's next examination and directly or indirectly discloses any such question or questions in advance of or during the examination to any applicant for that examination.

The proceedings for removal shall be conducted in accordance with the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the Governor shall have all the powers granted therein.

**§ 107      Boards—Executive Officer**

Pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution, each board may appoint a person exempt from civil service and may fix his or her salary, with the approval of the Department of Personnel Administration pursuant to Section 19825 of the Government Code, who shall be designated as an executive officer unless the licensing act of the particular board designates the person as a registrar.

**§ 108      Boards – Functions and Powers**

Each of the boards comprising the department exists as a separate unit, and has the functions of setting standards, holding meetings, and setting dates thereof, preparing and conducting examinations, passing upon applicants, conducting investigations of violations of laws under its jurisdiction, issuing citations and holding hearings for the revocation of licenses, and the imposing of penalties following such hearings, in so far as these powers are given by statute to each respective board.

**§ 108.5      Witness Fees, Expenses**

In any investigation, proceeding or hearing which any board, commission or officer in the department is empowered to institute, conduct, or hold, any witness appearing at such investigation, proceeding or hearing whether upon a subpoena or voluntarily, may be paid the sum of twelve dollars (\$12) per day for every day in actual attendance at such investigation, proceeding or hearing and for his actual, necessary and reasonable expenses and such sums shall be a legal charge against the funds of the respective board, commission or officer; provided further, that no witness appearing other than at the instance of the board, commission or officer may be compensated out of such fund.

The board, commission or officer will determine the sums due any such witness and enter the amount on its minutes.

**§ 109      Decisions Non-Reviewable; Director Powers**

- (a) The decisions of any of the boards comprising the department with respect to setting standards, conducting examinations, passing candidates, and revoking licenses, are not subject to review by the director, but are final within the limits provided by this code which are applicable to the particular board, except as provided in this section.
- (b) The director may initiate an investigation of any allegations of misconduct in the preparation, administration, or scoring of an examination which is administered by a board, or in the review of qualifications which are a part of the licensing process of any board. A request for investigation shall be made by the director to the Division of Investigation through the chief of the division or to any law enforcement agency in the jurisdiction where the alleged misconduct occurred.
- (c) The director may intervene in any matter of any board where an investigation by the Division of Investigation discloses probable cause to believe that the conduct or activity of a board, or its members or employees constitutes a violation of criminal law.

The term “intervene,” as used in paragraph (c) of this section may include, but is not limited to, an application for a restraining order or injunctive relief as specified in Section 123.5, or a referral or request for criminal prosecution. For purposes of this section, the director shall be deemed to have standing under Section 123.5 and shall seek representation of the Attorney General, or other appropriate counsel in the event of a conflict in pursuing that action.

**§ 111 Appointment of Commissioners on Examination**

Unless otherwise expressly provided, any board may, with the approval of the appointing power, appoint qualified persons, who shall be designated as commissioners on examination, to give the whole or any portion of any examination. A commissioner on examination need not be a member of the board but he shall have the same qualifications as one and shall be subject to the same rules.

**§ 112 Directories – Publication, Sale**

Notwithstanding any other provision of this code, no agency in the department, with the exception of the Board for Professional Engineers and Land Surveyors, shall be required to compile, publish, sell, or otherwise distribute a directory. When an agency deems it necessary to compile and publish a directory, the agency shall cooperate with the director in determining its form and content, the time and frequency of its publication, the persons to whom it is to be sold or otherwise distributed, and its price if it is sold. Any agency that requires the approval of the director for the compilation, publication, or distribution of a directory, under the law in effect at the time the amendment made to this section at the 1970 Regular Session of the Legislature becomes effective, shall continue to require that approval. As used in this section, “directory” means a directory, roster, register, or similar compilation of the names of persons who hold a license, certificate, permit, registration, or similar indicia of authority from the agency.

**§ 113 Travel Expenses**

Upon recommendation of the director, officers, and employees of the department, and the officers, members, and employees of the boards, committees, and commissions comprising it or subject to its jurisdiction may confer, in this state or elsewhere, with officers or employees of this state, its political subdivisions, other states, or the United States, or with other persons, associations, or organizations as may be of assistance to the department, board, committee, or commission in the conduct of its work. The officers, members, and employees shall be entitled to their actual traveling expenses incurred in pursuance hereof, but when these expenses are incurred with respect to travel outside of the state, they shall be subject to the approval of the Governor and the Director of Finance.

**§ 114 Reinstatement of Expired License of Licensee Serving in Military**

- (a) Notwithstanding any other provision of this code, any licensee or registrant of any board, commission or bureau within the department, who permitted his license or registration to expire while serving in any branch of the armed services of the United States during a period of war as defined in Section 114.5 of this code may, upon application, reinstate his license or registration without examination or penalty; provided,
  - (1) His license or registration was valid at the time he entered the armed services.
  - (2) That application for reinstatement is made while serving in the armed services, or not later than one year from the date of discharge from active service or return to inactive military status.
  - (3) The application for reinstatement is accompanied by an affidavit showing the date of entrance into the service, whether still in the service, or date of discharge, and the renewal fee for the current renewal period in which the application is filed is paid.
- (b) If application for reinstatement is filed more than one year after discharge or return to inactive status, the applicant, in the discretion of the licensing agency, may be required to pass an examination.

- (c) Unless otherwise specifically provided in this code, any licensee or registrant who, either part time or full time, practices in this State the profession or vocation for which he is licensed or registered shall be required to maintain his license in good standing even though he is in military service.

For the purposes in this section, time spent by a licensee in receiving treatment or hospitalization in any veterans' facility during which he is prevented from practicing his profession or vocation shall be excluded from said period of one year.

**§ 114.5      “War”**

As used in Section 114 of this code, “war” means:

- (a) Whenever Congress has declared war and peace has not formally been restored.
- (b) Whenever the United States is engaged in active military operations against any foreign power, whether or not war has formally been declared.
- (c) Whenever the United States is assisting the United Nations, in actions involving the use of armed force, to restore international peace and security.

**§ 118            Withdrawal of Application – Effect of Suspension or Forfeiture**

- (a) The withdrawal of an application for a license after it has been filed with a board in the department shall not, unless the board has consented in writing to such withdrawal, deprive the board of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.
- (b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.
- (c) As used in this section, “board” includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and “license” includes “certificate,” “registration,” and “permit.”

**§ 119            Illegal Uses of License**

Any person who does any of the following is guilty of a misdemeanor:

- (a) Displays or causes or permits to be displayed or has in his or her possession either of the following:
  - (1) A canceled, revoked, suspended, or fraudulently altered license.
  - (2) A fictitious license or any document simulating a license or purporting to be or have been issued as a license.
- (b) Lends his or her license to any other person or knowingly permits the use thereof by another.
- (c) Displays or represents any license not issued to him or her as being his or her license.
- (d) Fails or refuses to surrender to the issuing authority upon its lawful written demand any license, registration, permit, or certificate which has been suspended, revoked, or canceled.
- (e) Knowingly permits any unlawful use of a license issued to him or her.

- (f) Photographs, photostats, duplicates, manufactures, or in any way reproduces any license or facsimile thereof in a manner that it could be mistaken for a valid license, or displays or has in his or her possession any such photograph, photostat, duplicate, reproduction, or facsimile unless authorized by this code.
- (g) Buys or receives a fraudulent, forged, or counterfeited license knowing that it is fraudulent, forged, or counterfeited. For purposes of this subdivision, “fraudulent” means containing any misrepresentation of fact.

As used in this section, “license” includes “certificate,” “permit,” “authority,” and “registration” or any other indicia giving authorization to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

**§ 121 License Offenses; Legality of Practice Between Renewal and Receipt of License**

No licensee who has complied with the provisions of this code relating to the renewal of his or her license prior to expiration of such license shall be deemed to be engaged illegally in the practice of his or her business or profession during any period between such renewal and receipt of evidence of such renewal which may occur due to delay not the fault of the applicant.

As used in this section, “license” includes “certificate,” “permit,” “authorization,” and “registration,” or any other indicia giving authorization, by any agency, board, bureau, commission, committee, or entity within the Department of Consumer Affairs, to engage in a business or profession regulated by this code or by the board referred to in the Chiropractic Act or the Osteopathic Act.

**§ 123 Subversion of Licensing Examinations – Misdemeanor**

It is a misdemeanor for any person to engage in any conduct which subverts or attempts to subvert any licensing examination or the administration of an examination, including, but not limited to:

- (a) Conduct which violates the security of the examination materials; removing from the examination room any examination materials without authorization; the unauthorized reproduction by any means of any portion of the actual licensing examination; aiding by any means the unauthorized reproduction of any portion of the actual licensing examination; paying or using professional or paid examination-takers for the purpose of reconstructing any portion of the licensing examination; obtaining examination questions or other examination material, except by specific authorization either before, during, or after an examination; or using or purporting to use any examination questions or materials which were improperly removed or taken from any examination for the purpose of instructing or preparing any applicant for examination; or selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing examination.
- (b) Communicating with any other examinee during the administration of a licensing examination; copying answers from another examinee or permitting one’s answers to be copied by another examinee; having in one’s possession during the administration of the licensing examination any books, equipment, notes, written or printed materials, or data of any kind, other than the examination materials distributed, or otherwise authorized to be in one’s possession during the examination; or impersonating any examinee or having an impersonator take the licensing examination on one’s behalf.

Nothing in this section shall preclude prosecution under the authority provided for in any other provision of law.



In addition to any other penalties, a person found guilty of violating this section, shall be liable for the actual damages sustained by the agency administering the examination not to exceed ten thousand dollars (\$10,000) and the costs of litigation.

- (c) If any provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

**§ 123.5      Engagement in Practices Constituting a Violation Under §123; Injunction or Restraining Order**

Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of Section 123, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining such conduct on application of a board, the Attorney General or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

The remedy provided for by this section shall be in addition to, and not a limitation on, the authority provided for in any other provision of law.

**§ 124              Giving Written Notice**

Notwithstanding subdivision (c) of Section 11505 of the Government Code, whenever written notice, including a notice, order, or document served pursuant to Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), or Chapter 5 (commencing with Section 11500), of Part 1 of Division 3 of Title 2 of the Government Code, is required to be given by any board in the department, the notice may be given by regular mail addressed to the last known address of the licentiate or by personal service, at the option of the board.

**§ 125              Conspiracy with Unlicensed Person to Violate Code**

Any person, licensed under Division 1 (commencing with Section 100), Division 2 (commencing with Section 500), or Division 3 (commencing with Section 5000) is guilty of a misdemeanor and subject to the disciplinary provisions of this code applicable to him or her, who conspires with a person not so licensed to violate any provision of this code, or who, with intent to aid or assist that person in violating those provisions does either of the following:

- (a) Allows his or her license to be used by that person.
- (b) Acts as his or her agent or partner.

**§ 125.3          Investigation and Enforcement Costs; Payment By Licentiate**

- (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.
- (b) In the case of a disciplined licentiate that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

- (c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.
- (d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).
- (e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.
- (f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.
- (g)
  - (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.
  - (2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.
- (h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.
- (i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.
- (j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.
- (k) Notwithstanding the provisions of this section, the Medical Board of California shall not request nor obtain from a physician and surgeon, investigation and prosecution costs for a disciplinary proceeding against the licensee. The board shall ensure that this subdivision is revenue neutral with regard to it and that any loss of revenue or increase in costs resulting from this subdivision is offset by an increase in the amount of the initial license fee and the biennial renewal fee, as provided in subdivision (e) of Section 2435.

#### **§ 125.6      Discrimination – Physically Handicapped**

Every person who holds a license under the provisions of this code is subject to disciplinary action under the disciplinary provisions of this code applicable to such person if, because of the applicant's race, color, sex, religion, ancestry, disability, marital status, or national origin, he or she refuses to perform the licensed activity or aids or incites the refusal to perform such licensed activity by another licensee, or if, because of the applicant's race, color, sex, religion, ancestry, disability, marital status, or national origin, he or she makes any discrimination, or restriction in the performance of the licensed activity. Nothing in this section shall be interpreted

to apply to discrimination by employers with regard to employees or prospective employees, nor shall this section authorize action against any club license issued pursuant to Article 4 (commencing with Section 23425) of Chapter 3 of Division 9 because of discriminatory membership policy. The presence of architectural barriers to an individual with physical disabilities which conform to applicable state or local building codes and regulations shall not constitute discrimination under this section.

Nothing in this section requires a person licensed pursuant to Division 2 (commencing with Section 500) to permit an individual to participate in, or benefit from, the licensed activity of the licensee where that individual poses a direct threat to the health or safety of others. For this purpose, the term “direct threat” means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids and services.

“License,” as used in this section, includes “certificate,” “permit,” “authority,” and “registration” or any other indicia giving authorization to engage in a business or profession regulated by this code.

“Applicant,” as used in this section means a person applying for licensed services provided by a person licensed under this code.

“Disability” means any of the following with respect to an individual:

- (a) A physical or mental impairment that substantially limits one or more of the major life activities of the individual.
- (b) A record of such an impairment.
- (c) Being regarded as having such an impairment.

#### **§ 125.9      System for Issuance of Citation to a Licensee**

- (a) Except with respect to persons regulated under Chapter 11 (commencing with Section 7500) and Chapter 11.6 (commencing with Section 7590) of Division 3, any board, bureau, or commission within the department, the board created by the Chiropractic Initiative Act, and the Osteopathic Medical Board of California may establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board, bureau, or commission where the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto.
- (b) The system shall contain the following provisions:
  - (1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.
  - (2) Whenever appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.
  - (3) In no event shall the administrative fine assessed by the board, bureau, or commission exceed five thousand dollars (\$5,000) for each inspection or each investigation made with respect to the violation, or five thousand dollars (\$5,000) for each violation or count if the violation involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare.

In assessing a fine, the board, bureau, or commission shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.

- (4) A citation or fine assessment issued pursuant to a citation shall inform the licensee that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board, bureau, or commission within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
- (5) Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board, bureau, or commission. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.
- (c) The system may contain the following provisions:
  - (1) A citation may be issued without the assessment of an administrative fine.
  - (2) Assessment of administrative fines may be limited to only particular violations of the applicable licensing act.
- (d) Notwithstanding any other provision of law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.
- (e) Administrative fines collected pursuant to this section shall be deposited in the special fund of the particular board, bureau, or commission.

**§ 128      Unlawful Sale of Equipment, Supplies and Services**

Notwithstanding any other provision of law, it is a misdemeanor to sell equipment, supplies, or services to any person with knowledge that the equipment, supplies, or services are to be used in the performance of a service or contract in violation of the licensing requirements of this code.

The provisions of this section shall not be applicable to cash sales of less than one hundred dollars (\$100).

For the purposes of this section, “person” includes, but is not limited to, a company, partnership, limited liability company, firm, or corporation.

For the purposes of this section, “license” includes certificate or registration.

A violation of this section shall be punishable by a fine of not less than one thousand dollars (\$1,000) and by imprisonment in the county jail not exceeding six months.

**§ 129      Complaint Procedure – Notification of Complainant and Licentiate**

- (a) As used in this section, “board” means every board, bureau, commission, committee and similarly constituted agency in the department which issues licenses.
- (b) Each board shall, upon receipt of any complaint respecting a licentiate thereof, notify the complainant of the initial administrative action taken on his complaint within 10 days of receipt. Each board shall thereafter notify the complainant of the final action taken on his complaint. There shall be a notification made in every case in which the complainant is known. If the complaint is not within the jurisdiction of the board or if the board is unable to dispose satisfactorily of the complaint, the board shall transmit the complaint together with any evidence or information it has concerning the complaint to the agency, public or private, whose authority in the opinion of the board will provide the most effective means to secure the relief sought. The board shall notify the complainant of such action and of any other means which may be available to the complainant to secure relief.

- (c) The board shall, when the board deems it appropriate, notify the person against whom the complaint is made of the nature of the complaint, may request appropriate relief for the complainant, and may meet and confer with the complainant and the licensee in order to mediate the complaint. Nothing in this subdivision shall be construed as authorizing or requiring any board to set or to modify any fee charged by a licensee.
- (d) It shall be the continuing duty of the board to ascertain patterns of complaints and to report on all actions taken with respect to such patterns of complaints to the director and to the Legislature at least once a year. The board shall evaluate those complaints dismissed for lack of jurisdiction or no violation and recommend to the director and to the Legislature at least once a year such statutory changes as it deems necessary to implement the board's functions and responsibilities under this section.
- (e) It shall be the continuing duty of the board to take whatever action it deems necessary, with the approval of the director, to inform the public of its functions under this section.

**§ 135 Reexamination After Failure**

No agency in the department shall, on the basis of an applicant's failure to successfully complete prior examinations, impose any additional limitations, restrictions, prerequisites, or requirements on any applicant who wishes to participate in subsequent examinations except that any examining agency which allows an applicant conditional credit for successfully completing a divisible part of an examination may require that an applicant be reexamined in those parts successfully completed if such applicant has not successfully completed all parts of the examination within a required period of time established by the examining agency. Nothing in this section, however, requires the exemption of such applicant from the regular fees and requirements normally associated with examinations.

**§ 136 Address Change – Notice Required**

- (a) Each person holding a license, certificate, registration, permit, or other authority to engage in a profession or occupation issued by a board within the department shall notify the issuing board at its principal office of any change in his or her mailing address within 30 days after the change, unless the board has specified by regulations a shorter time period.
- (b) Except as otherwise provided by law, failure of a licensee to comply with the requirement in subdivision (a) constitutes grounds for the issuance of a citation and administrative fine, if the board has the authority to issue citations and administrative fines.

**§ 137 Advertising By License – Inclusion of License Numbers, Exemptions**

Any agency within the department may promulgate regulations requiring licensees to include their license numbers in any advertising, soliciting, or other presentments to the public.

However, nothing in this section shall be construed to authorize regulation of any person not a licensee who engages in advertising, solicitation, or who makes any other presentment to the public on behalf of a licensee. Such a person shall incur no liability pursuant to this section for communicating in any advertising, soliciting, or other presentment to the public a licensee's license number exactly as provided to him by the licensee or for failure to communicate such number if none is provided to him by the licensee.

**§ 138      Requirement That Licentiatees Provide Notice of Licensing to Clients or Customers; Regulations; Periodic Evaluation of Licensing Examination**

Every board in the department, as defined in Section 22, shall initiate the process of adopting regulations on or before June 30, 1999, to require its licentiatees, as defined in Section 23.8, to provide notice to their clients or customers that the practitioner is licensed by this state. A board shall be exempt from the requirement to adopt regulations pursuant to this section if the board has in place, in statute or regulation, a requirement that provides for consumer notice of a practitioner's status as a licensee of this state.

**§ 139      Examination Development, Validation, and Occupational Analysis Policy**

- (a) The Legislature finds and declares that occupational analyses and examination validation studies are fundamental components of licensure programs. It is the intent of the Legislature that the policy developed by the department pursuant to subdivision (b) be used by the fiscal, policy, and sunset review committees of the Legislature in their annual reviews of these boards, programs, and bureaus.
- (b) Notwithstanding any other provision of law, the department shall develop, in consultation with the boards, programs, bureaus, and divisions under its jurisdiction, and the Osteopathic Medical Board of California and the State Board of Chiropractic Examiners, a policy regarding examination development and validation, and occupational analysis. The department shall finalize and distribute this policy by September 30, 1999, to each of the boards, programs, bureaus, and divisions under its jurisdiction and to the Osteopathic Medical Board of California and the State Board of Chiropractic Examiners. This policy shall be submitted in draft form at least 30 days prior to that date to the appropriate fiscal, policy, and sunset review committees of the Legislature for review. This policy shall address, but shall not be limited to, the following issues:
  - (1) An appropriate schedule for examination validation and occupational analyses, and circumstances under which more frequent reviews are appropriate.
  - (2) Minimum requirements for psychometrically sound examination validation, examination development, and occupational analyses, including standards for sufficient number of test items.
  - (3) Standards for review of state and national examinations.
  - (4) Setting of passing standards.
  - (5) Appropriate funding sources for examination validations and occupational analyses.
  - (6) Conditions under which boards, programs, and bureaus should use internal and external entities to conduct these reviews.
  - (7) Standards for determining appropriate costs of reviews of different types of examinations, measured in terms of hours required.
  - (8) Conditions under which it is appropriate to fund permanent and limited term positions within a board, program, or bureau to manage these reviews.

- (c) Every regulatory board and bureau, as defined in Section 22, and every program and bureau administered by the department, the Osteopathic Medical Board of California, and the State Board of Chiropractic Examiners, shall submit to the director on or before December 1, 1999, and on or before December 1 of each subsequent year, its method for ensuring that every licensing examination administered by or pursuant to contract with the board is subject to periodic evaluation. The evaluation shall include (1) a description of the occupational analysis serving as the basis for the examination; (2) sufficient item analysis data to permit a psychometric evaluation of the items; (3) an assessment of the appropriateness of prerequisites for admittance to the examination; and (4) an estimate of the costs and personnel required to perform these functions. The evaluation shall be revised and a new evaluation submitted to the director whenever, in the judgment of the board, program, or bureau, there is a substantial change in the examination or the prerequisites for admittance to the examination.
- (d) The evaluation may be conducted by the board, program, or bureau, the Office of Examination Resources of the department, the Osteopathic Medical Board of California, or the State Board of Chiropractic Examiners or pursuant to a contract with a qualified private testing firm. A board, program, or bureau that provides for development or administration of a licensing examination pursuant to contract with a public or private entity may rely on an occupational analysis or item analysis conducted by that entity. The department shall compile this information, along with a schedule specifying when examination validations and occupational analyses shall be performed, and submit it to the appropriate fiscal, policy, and sunset review committees of the Legislature by September 30 of each year. It is the intent of the Legislature that the method specified in this report be consistent with the policy developed by the department pursuant to subdivision (b).

**§ 140      Failure to Record and Preserve Cash Transactions Involving Wages; Disciplinary Action; Costs**

Any board, as defined in Section 22, which is authorized under this code to take disciplinary action against a person who holds a license may take disciplinary action upon the ground that the licensee has failed to record and preserve for not less than three years, any and all cash transactions involved in the payment of employee wages by a licensee. Failure to make these records available to an authorized representative of the board may be made grounds for disciplinary action. In any action brought and sustained by the board which involves a violation of this section and any regulation adopted thereto, the board may assess the licensee with the actual investigative costs incurred, not to exceed two thousand five hundred dollars (\$2,500). Failure to pay those costs may result in revocation of the license. Any moneys collected pursuant to this section shall be deposited in the respective fund of the board.

**§ 141      Effect of Disciplinary Action Taken by Another State or the Federal Government**

- (a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

- (b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.

**§ 143      Suit for Collection of Compensation – License Prerequisite**

- (a) No person engaged in any business or profession for which a license is required under this code governing the department or any board, bureau, commission, committee, or program within the department, may bring or maintain any action, or recover in law or equity in any action, in any court of this state for the collection of compensation for the performance of any act or contract for which a license is required without alleging and proving that he or she was duly licensed at all times during the performance of that act or contract, regardless of the merits of the cause of action brought by the person.
- (b) The judicial doctrine of substantial compliance shall not apply to this section.
- (c) This section shall not apply to an act or contract that is considered to qualify as lawful practice of a licensed occupation or profession pursuant to Section 121.

**§ 145      Unlicensed Activity – Criminal, Civil Sanctions, Fines**

The Legislature finds and declares that:

- (a) Unlicensed activity in the professions and vocations regulated by the Department of Consumer Affairs is a threat to the health, welfare, and safety of the people of the State of California.
- (b) The law enforcement agencies of the state should have sufficient, effective, and responsible means available to enforce the licensing laws of the state.
- (c) The criminal sanction for unlicensed activity should be swift, effective, appropriate, and create a strong incentive to obtain a license.

**§ 147      Power to Issue Written Notices of Court Appearances**

- (a) Any employee designated by the director shall have the authority to issue a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code. Employees so designated are not peace officers and are not entitled to safety member retirement benefits, as a result of such designation. The employee's authority is limited to the issuance of written notices to appear for infraction violations of provisions of this code and only when the violation is committed in the presence of the employee.
- (b) There shall be no civil liability on the part of, and no cause of action shall arise against, any person, acting pursuant to subdivision (a) and within the scope of his or her authority, for false arrest or false imprisonment arising out of any arrest which is lawful or which the person, at the time of such arrest, had reasonable cause to believe was lawful.

**§ 148      System for Issuance of Citation to an Unlicensed Person**

Any board, bureau, or commission within the department may, in addition to the administrative citation system authorized by Section 125.9, also establish, by regulation, a similar system for the issuance of an administrative citation to an unlicensed person who is acting in the capacity of a licensee or registrant under the jurisdiction of that board, bureau, or commission. The administrative citation system authorized by this section shall meet the requirements of Section 125.9 and may not be applied to an unlicensed person who is otherwise exempted from the provisions of the applicable licensing act. The establishment of an administrative citation system



for unlicensed activity does not preclude the use of other enforcement statutes for unlicensed activities at the discretion of the board, bureau, or commission.

**§ 149      Advertising in Telephone Directory Without License – Agency Citation**

- (a) If, upon investigation, an agency designated in subdivision (e) has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services, without being properly licensed by or registered with the agency to offer or perform those services, the agency may issue a citation under Section 148 containing an order of correction that requires the violator to do both of the following:
  - (1) Cease the unlawful advertising.
  - (2) Notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.
- (b) This action is stayed if the person to whom a citation is issued under subdivision (a) notifies the agency in writing that he or she intends to contest the citation. The agency shall afford an opportunity for a hearing, as specified in Section 125.9.
- (c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after that order is final, the agency shall inform the Public Utilities Commission of the violation and the Public Utilities Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.
- (d) The good faith compliance by a telephone corporation with an order of the Public Utilities Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the telephone corporation arising from the termination of service.
- (e) Subdivision (a) shall apply to the following boards, bureaus, committees, commissions, or programs:
  - (1) The Bureau of Barbering and Cosmetology.
  - (2) The Funeral Directors and Embalmers Program.
  - (3) The Veterinary Medical Board.
  - (4) The Hearing Aid Dispensers Advisory Commission.
  - (5) The Landscape Architects Technical Committee.
  - (6) The California Board of Podiatric Medicine.
  - (7) The Respiratory Care Board of California.
  - (8) The Bureau of Home Furnishings and Thermal Insulation.
  - (9) The Bureau of Security and Investigative Services.
  - (10) The Bureau of Electronic and Appliance Repair.
  - (11) The Bureau of Automotive Repair.
  - (12) The Tax Preparers Program.
  - (13) The California Architects Board.
  - (14) The Speech-Language Pathology and Audiology Board.
  - (15) The Board for Professional Engineers and Land Surveyors.
  - (16) The Board of Behavioral Sciences.
  - (17) The State Board for Geologists and Geophysicists.

- (18) The Structural Pest Control Board.
- (19) The Acupuncture Board.
- (20) The Board of Psychology.
- (21) The California Board of Accountancy.
- (22) The Bureau of Naturopathic Medicine.

**§ 161        Sale of Copies of Public Records**

The department, or any board in the department, may sell copies of any part of its respective public records, or compilations, extracts, or summaries of information contained in its public records, at a charge sufficient to pay the actual cost thereof. Such charge, and the conditions under which sales may be made, shall be determined by the director with the approval of the Department of General Services.

**§ 163        Fee for Certification of Records, Etc.**

Except as otherwise expressly provided by law, the department and each board in the department shall charge a fee of two dollars (\$2) for the certification of a copy of any record, document, or paper in its custody or for the certification of any document evidencing the content of any such record, document, or paper.

**§ 206        Dishonored Check Tendered for Payment of Fine, Fee, or Penalty**

Notwithstanding any other provision of law, any person tendering a check for payment of a fee, fine, or penalty that was subsequently dishonored, shall not be granted a license, or other authority that they were seeking, until the applicant pays the amount outstanding from the dishonored payment together with the applicable fee, including any delinquency fee. The board may require the person whose check was returned unpaid to make payment of all fees by cashier's check or money order.

**§ 301        Declaration of Intent**

It is the intent of the Legislature and the purpose of this chapter to promote and protect the interests of the people as consumers. The Legislature finds that vigorous representation and protection of consumer interests are essential to the fair and efficient functioning of a free enterprise market economy. The Legislature declares that government advances the interests of consumers by facilitating the proper functioning of the free enterprise market economy through (a) educating and informing the consumer to insure rational consumer choice in the marketplace; (b) protecting the consumer from the sale of goods and services through the use of deceptive methods, acts, or practices which are inimical to the general welfare of consumers; (c) fostering competition; and (d) promoting effective representation of consumers' interests in all branches and levels of government.

**§ 460        Powers of Local Governmental Entities**

No city or county shall prohibit a person, authorized by one of the agencies in the Department of Consumer Affairs by a license, certificate, or other such means to engage in a particular business, from engaging in that business, occupation, or profession or any portion thereof. Nothing in this section shall prohibit any city or county or city and county from levying a business license tax solely for revenue purposes nor any city or county from levying a license tax solely for the purpose of covering the cost of regulation.

**Division 1.5. Denial, Suspension and Revocation of Licenses**

**§ 475        Grounds of Denial of License**

- (a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:
  - (1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.
  - (2) Conviction of a crime.
  - (3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.
  - (4) Commission of any act which, if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.
- (b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).
- (c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

**§ 480        Applicant's Grounds for Denial**

- (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:
  - (1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.
  - (2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or
  - (3) Done any act which if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.
- (b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he has been convicted of a felony if he has obtained a certificate of rehabilitation under Section 4852.01 and following of the Penal Code or that he has been convicted of a misdemeanor if he has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.
- (c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for such license.

**§ 485 Denial Procedure**

Upon denial of an application for a license, under this chapter or Section 496, the board shall do either of the following:

- (a) File and serve a statement of issues in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
- (b) Notify the applicant that the application is denied, stating (1) the reason for the denial, and (2) that the applicant has the right to a hearing under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code if written request for hearing is made within 60 days after service of the notice of denial. Unless written request for hearing is made within the 60-day period, the applicant's right to a hearing is deemed waived.

Service of the notice of denial may be made in the manner authorized for service of summons in civil actions, or by registered mail addressed to the applicant at the latest address filed by the applicant in writing with the board in his or her application or otherwise. Service by mail is complete on the date of mailing.

**§ 486 Denial – Notice Required**

Where the board has denied an application for a license under this chapter or Section 496, it shall, in its decision, or in its notice under subdivision (b) of Section 485, inform the applicant of the following:

- (a) The earliest date on which the applicant may reapply for a license which shall be one year from the effective date of the decision, or service of the notice under subdivision (b) of Section 485, unless the board prescribes an earlier date or a later date is prescribed by another statute.
- (b) That all competent evidence of rehabilitation presented will be considered upon a reapplication.

Along with the decision, or the notice under subdivision (b) of Section 485, the board shall serve a copy of the criteria relating to rehabilitation formulated under Section 482.

**§ 487 Hearing**

If a hearing is requested by the applicant, the board shall conduct such hearing within 90 days from the date the hearing is requested unless the applicant shall request or agree in writing to a postponement or continuance of the hearing. Notwithstanding the above, the Office of Administrative Hearings may order, or on a showing of good cause, grant a request for, up to 45 additional days within which to conduct a hearing, except in cases involving alleged examination or licensing fraud, in which cases the period may be up to 180 days. In no case shall more than two such orders be made or requests be granted.

**§ 488 Hearing Requests**

Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

- (a) Grant the license effective upon completion of all licensing requirements by the applicant.
- (b) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.
- (c) Deny the license.
- (d) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

**§ 489 Denial of License for Lack of Good Character**

Any agency in the department which is authorized by law to deny an application for a license upon the grounds specified in Section 480 or 496, may without a hearing deny an application upon any of those grounds, if within one year previously, and after proceedings conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that agency has denied an application from the same applicant upon the same ground.

**§ 490 Conviction of Crime; Suspension, Revocation – Grounds**

A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

**§ 490.5 Noncompliance with Child Support Order or Judgment as Grounds for Suspension**

A board may suspend a license pursuant to Section 11350.6 of the Welfare and Institutions Code if a licensee is not in compliance with a child support order or judgment.

**§ 491 Suspension, Revocation – Procedure**

Upon suspension or revocation of a license by a board on one or more of the grounds specified in Section 490, the board shall:

- (a) Send a copy of the provisions of Section 11522 of the Government Code to the ex-licensee.
- (b) Send a copy of the criteria relating to rehabilitation formulated under Section 482 to the ex-licensee.

**§ 495 Public Reproval – Grounds – Procedure**

Notwithstanding any other provision of law, any entity authorized to issue a license or certificate pursuant to this code may publicly reprove a licentiate or certificate holder thereof, for any act that would constitute grounds to suspend or revoke a license or certificate. Any proceedings for public reproof, public reproof and suspension, or public reproof and revocation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, or, in the case of a licensee or certificate holder under the jurisdiction of the State Department of Health Services, in accordance with Section 100171 of the Health and Safety Code.

**§ 496 Denial, Suspension, or Violation of §123; Revocation of License**

A board may deny, suspend, revoke, or otherwise restrict a license on the ground that an applicant or licensee has violated Section 123 pertaining to subversion of licensing examinations.

**§ 498 License Secured by Fraud, Deceit, or Knowing Misrepresentation**

A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact or by knowingly omitting to state a material fact.

**§ 499      False Statement in Support of Another Person's Application**

A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee, in support of another person's application for license, knowingly made a false statement of a material fact or knowingly omitted to state a material fact to the board regarding the application.



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